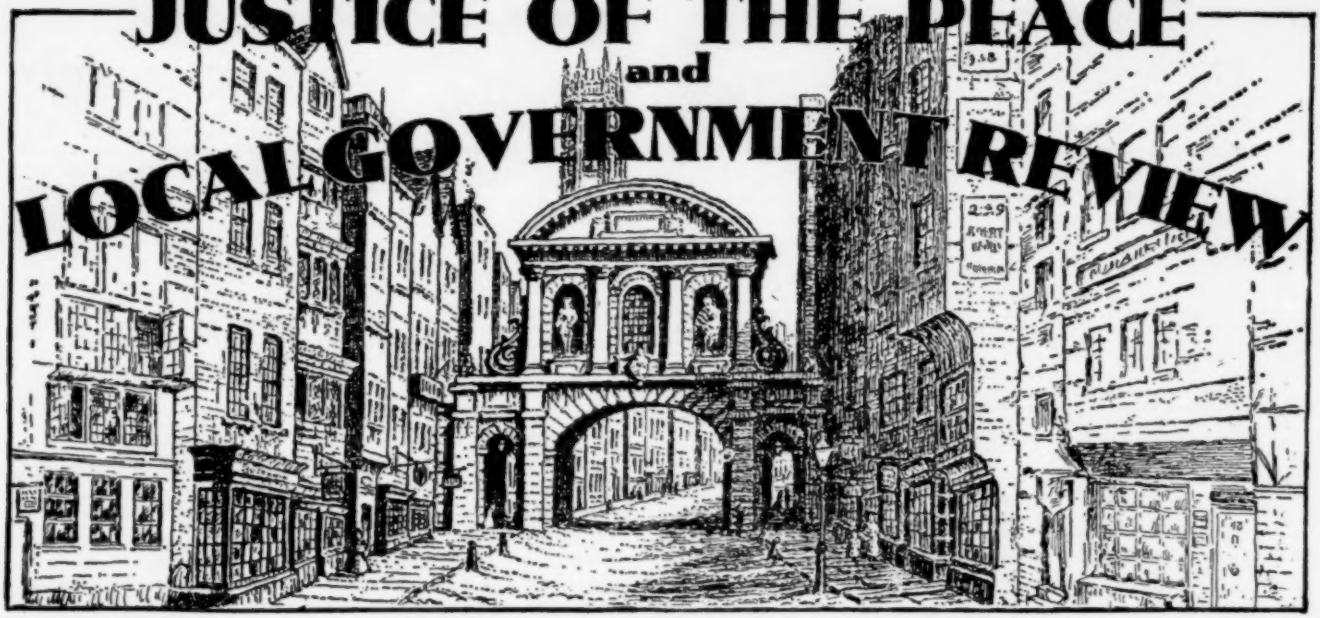
JUSTICE OF THE PEACE and LOCAL GOVERNMENT REVIEW



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The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note* : Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

SITUATIONS WANTED

ASSISTANT CLERK TO JUSTICES (Female), 10 years' experience, available from January, 1955, owing to re-organization of staff. Shorthand-typist, capable of issuing process, keeping accounts and generally assisting in work of clerk to justices. Reply Box No. A.27.

SITUATIONS VACANT

WANTED. Male assistant about 23 years. Salary General Division. Magisterial or other legal experience an advantage. Must be competent shorthand typist.

Apply, Clerk to Justices, Court House, Chatham.

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YORKSHIRE DETECTIVE BUREAU (T. E. Hoyland, Ex-Detective Sergeant) Member of The Association of British Detectives, World Secret Service Association and Associated American Detective Agencies. DIVORCE — OBSERVATIONS — ENQUIRIES—Civil and Criminal investigations anywhere. Over 1,000 Agents. Over 27 years C.I.D. and Private Detective Experience at your Service. Empire House, 10, Piccadilly, Bradford. Tel. 25129. (After office hours, 26823.) Established 1945.

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NORTH WALES COMBINED PROBATION AREA

Principal Probation Officer (Male)

APPLICATIONS are invited for this post from whole-time officers with considerable experience. Knowledge of Welsh desirable. Group I salary scale (Probation Rules, 1949 to 1954).

Applications, giving full particulars, with the names of two referees should be sent to the Secretary of the Combined Area Committee, County Offices, Caernarvon, by December 18, 1954.

COUNTY OF SALOP

ASSISTANT Solicitor required. Salary scale £825 to £1,000 per annum. The appointment covers advocacy, conveyancing and Committee work. Applications, with names of two referees, by December 22.

G. C. GODBER,
Clerk of the County Council.

Shirehall, Shrewsbury,
November 29, 1954.

CITY OF LEICESTER

Appointment of Woman Probation Officer

APPLICATIONS are invited for the appointment of a woman Probation Officer who will be required to take up her duties on February 1, next.

The appointment will be subject to the Probation Rules, and the salary will be in accordance with the scale provided under those Rules.

Applications, stating age, qualifications, experience and present salary (if already serving), and accompanied by not more than two recent testimonials must reach the undersigned not later than December 20, 1954.

W. E. BLAKE CARN,
Secretary to the City Probation Committee.

Town Hall,
Leicester.

LINCOLNSHIRE (PARTS OF HOLLAND) MAGISTRATES' COURTS COMMITTEE

Appointment of Part-time Justices' Clerk

APPLICATIONS are invited from properly qualified persons for the part-time appointment of Clerk to the Justices for the Magistrates' Court at Spalding in the Elloe Petty Sessional Division (population group 20,000—29,999). Personal salary and conditions of service as agreed by Joint Negotiating Committee for Justices' Clerks (commencing £625 per annum, unless the successful applicant is already a part-time justices' clerk). Appointment superannuable, medical examination required. Terminable by three months' notice on either side. Applications stating age, qualifications and experience, with the names of two referees, must be received by me not later than December 18, 1954.

H. A. H. WALTER,
Clerk of the Committee.

County Hall,
Boston, Lincs.

THE URBAN DISTRICT COUNCIL OF ESTON

ASSISTANT SOLICITOR required for Clerk and Solicitor's Department. The Salary Scales will be £675 per annum to £752 per annum or £765 per annum to £825 per annum according to the date of admission of the successful candidate. A tenancy of a dwelling-house provided by the Council will be granted to the successful candidate if required. Further particulars may be obtained from the Clerk of the Council, Council Offices, Grangetown-on-Tees, Middlesbrough, to whom applications should be submitted not later than December 20, 1954.

T. MYRDDIN BAKER,
Clerk of the Council.

COUNTY BOROUGH OF WEST HARTLEPOOL MAGISTRATES' COURTS COMMITTEE

Appointment of Assistant

APPLICATIONS are invited for the appointment of a Junior Assistant Clerk in my office. Applicants should be 21 to 25 years of age and have completed or be exempt from Military Training. They should have some experience of work in an office of a Justices' Clerk or of a solicitor and should have some knowledge of or be prepared to learn shorthand and typing. Salary will be in accordance with the National Joint Council General Division scale.

Applications in writing to be made not later than Wednesday, December 15, 1954, giving full particulars of age, education and experience, together with the names and addresses of two persons as referees.

L. J. POTTS,
Clerk to the Magistrates' Courts Committee.

Rockhaven,
Victoria Road,
West Hartlepool.

MIDDLESEX MAGISTRATES' COURTS COMMITTEE

JUSTICES' CLERK'S ASSISTANT (whole-time) required for Willesden Division. Experienced in keeping Magisterial accounts issuing process and general duties of Clerk of the Court essential. Commencing salary £650 p.a. inclusive on scale £650—£700.

JUSTICES' CLERK'S ASSISTANT (whole-time) required for Highgate Division. Previous experience in a Justices' Clerk's Office essential. Scale £495 to £625 p.a. inclusive. Commencing salary according to experience.

Both posts pensionable, subject to medical assessment. Apply, giving three referees, to the Clerk to the Magistrates' Courts Committee, Guildhall, Westminster, S.W.1., by December 28 (quote p. 567, J.P.).

WORCESTERSHIRE MAGISTRATES' COURTS COMMITTEE

Stourbridge Petty Sessional Division

Appointment of Assistant to the Clerk to the Justices

SALARY A.P.T. I (£500×£20—£580) or II (£560×£20—£640) according to qualifications and experience. The post is superannuable, subject to one month's notice on either side, and subject to medical examination.

Applications, stating age, education, qualifications and experience, and names of two referees, to be sent to Mr. G. M. King, Clerk to the Justices, 10 Foster Street, Stourbridge, by December 18. (T. 248.)

Justice of the Peace
and
Local Government Review

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NOTES of the WEEK

Delays in Litigation

Complaints about the law's delays are nothing new, but no complete solution to the problem of speeding up has yet been found. In criminal cases there is hardly any ground for complaint, and ordinary men and women ask why if the criminal law can work swiftly and yet surely, civil actions take so long. A charge of murder may be brought to trial and concluded in a matter of weeks or at most a very few months, perhaps with an appeal included, yet the newspapers constantly report civil actions in which the events to which they are related occurred a year or two earlier.

In some quarters it is suggested that it is the elaborate system of procedure that lengthens civil proceedings. In others, congestion of High Court business is put forward as the cause. Another reason for delay in the hearing of some cases was illustrated by a statement by Hilbery, J., on November 16. The learned Judge is reported as saying that it made him quite angry to hear of talk in the press and elsewhere of delay in the hearing of cases. There was no such thing. Delays were caused solely by the parties.

Agreeing " in exceptional circumstances " to postpone a case until next week, his Lordship observed : " Through a party not being ready it is very likely that some court will be short of work today."

The Times of November 17 states " The Long Non-Jury list of actions in the Queen's Bench Division, published yesterday shows that, in the majority of cases in this list, there is a period of at least 10 months between the date of entry for trial and the hearing. A case is not set down for trial before the pleadings are closed and other interlocutory matters dealt with."

The Onus is on the Prosecution

We read in a report in a local newspaper that three prosecutions in the city of Oxford failed recently, without the cases being heard on their merits, because certain steps had not been taken which were necessary before there could be any possibility of a conviction.

In the first instance it is recorded that in a prosecution under a local traffic regulation order the police were not able to prove the order. When its production was requested the prosecutor asked for an adjournment, but this was refused and the case was dismissed. The other two cases related to alleged infringement of byelaws regulating the control of car parks, and in each case it was a statutory requirement that the byelaws must be exhibited on or near the car park. In neither case had this been done, and in each case, therefore, the prosecutor applied for leave to withdraw the summons.

None of these cases was of itself a matter of any great importance, but we use them to remind our readers how important it is to remember that it is the task of the prosecutor who institutes proceedings to make sure that his case is in order. He must always be prepared, save in case where the defence have intimated in advance that a plea of guilty will be offered, to prove his case with all strictness, and he should not institute proceedings unless he has satisfied himself that everything necessary has been done to make the acts complained of an offence which can be properly proved.

If prosecutors do not take these elementary precautions they cannot complain if defendants take what are sometimes called " technical " objections, nor can they complain (although the ratepayers may) if courts order them to pay costs to the defendants whose cases are so dismissed.

Magistrates' Courts : An Unofficial Inquiry

We have received a brochure entitled *Justice* which has been published by the *Daily Mirror* as the result of an inquiry it has conducted into certain aspects of the administration of justice in this country. A team of investigators was appointed, and kept a watch on the proceedings of 40 magistrates' courts for a month and a panel of experts was invited to prepare this report.

The report is divided into three parts : (1) The congestion of the High Court, (2) Legal Aid, and (3) Magistrates' Courts. Naturally we have been most interested in the third, and although we are not always in agreement with the report there is much in it that may promote useful discussion. Apparently it is the court of the lay justices that is thought to be in need of reform, not that of the stipendiary magistrate.

The report admits that, following upon the report of the Royal Commission and the coming into operation of the Justices of the Peace Act, various improvements have been made, but it is suggested that there is still room for criticism and need for reform. It is considered that there is still great weakness in the method by which justices are appointed and in spite of the imposition of an age limit there are still too many who are " not up to their jobs." The panel does not, however, consider the replacement of all lay justices by stipendiaries to be either desirable or practicable. The suggestion is made that party politics still have too much influence and that the Lord Chancellor's department is too over-worked and understaffed to be able to make adequate investigations. The report says : " Undoubtedly, the Secretary of Commissions must be given a staff sufficiently strong to enable him to keep in touch with what is happening in remote parts of the country, to

see just how the individual advisory committees do tackle their work . . . It is estimated that at least one-third of the magistrates in England and Wales are members of local councils. Others are former councillors. And in a survey made of 40 magistrates' courts by a team of *Daily Mirror* investigators it was discovered that in 36 of the courts at least half the magistrates were active in politics and in some cases the figure was over three-quarters. In one instance it was 90 *per cent.*"

Advisory Committees

The panel of experts was not satisfied with the working of the present system of advisory committees. The following recommendations are made in the report.

1. Notices to be published in local newspapers and posted in public places, notifying magisterial vacancies once a year.

2. Nomination for consideration for appointment as a magistrate to be made in a similar manner to that in existence for the nomination of local councillors, *i.e.*, the support of 10 electors. (This would open nomination to independent men and women not connected with political parties.)

3. All candidates to be interviewed by a regional selection board. The regions to correspond to the old civil defence regions.

4. The board to consist of three permanent members, who will be advised by the local advisory committee when considering recommendations for a specific area. To avoid any unnecessary secrecy, the names of the members of the board should be published.

5. The three members of the regional board to be appointed by the Lord Chancellor. They should be of the calibre of a retired judge, lawyer, doctor, business man, grammar school headmaster, or retired director of education. They should be men and women who have to study human personalities and character, and as far as possible they should not be people with strong political opinions.

6. All candidates selected to fill vacancies by the board to be appointed justices of the peace, subject to confirmation by the Lord Chancellor.

7. New magistrates not to take their places on the bench until they have undergone training and have passed an examination showing that they have some knowledge of their responsibilities.

While we do not consider it at all likely or even desirable, that these recommendations should be generally acceptable without modification, we think they might perhaps provide a basis for some improvements in the present system.

Police and Court

We find here the familiar complaint that in some magistrates' courts appearances seem to justify the public belief that the police are in a privileged position, and that in a few courts they really do have too much influence. The fact that often the court and the police station are part of the same building is said to increase that impression, but we do not attach too much importance to that if the court is properly conducted, and there are undoubted advantages of having the court and police station near to each other. The report goes so far as to suggest that magistrates should keep themselves apart from the police as much as possible and should not accept invitations to social clubs and dances run by the police.

There are many police officers who are well able to conduct their own cases without the assistance of a solicitor, in the absence of exceptional difficulties. This can work quite well and is not open to the objection that may reasonably be made when some superior police officer, not concerned with the case, is brought in to conduct the proceedings. This report makes a complaint of another kind, namely that in opening a case a police officer sometimes makes a clear and convincing statement which doubtless he believes to be true, but which he is not in a position to prove in all its details.

The panel would like to see the Scottish system of prosecutions by the procurator fiscal extended to English magistrates' courts. We are aware that in some quarters this is thought desirable, but we cannot accept the following statements in the report as a true picture of what happens today when, in the words of the report, the system permits "all sorts of people to appear as prosecutors, *e.g.*, policemen, county or borough officials, ministry officials, private prosecutors." The report goes on: "At present, in all these cases the prosecuting official invariably regards the securing of a conviction as a personal matter. Generally speaking, he is far more concerned in obtaining a conviction than in presenting the facts fairly and impartially to the magistrates."

The report, which costs only 3*d.*, is sure to be widely read and discussed and will no doubt produce replies from some quarters to which criticism has been directed. We hope this will be the case.

Air Pollution

The campaign against air pollution continues as was shown at the annual conference of the National Smoke Abatement Society when information was given as to tests of air pollution carried out by the Fuel Research Board and other responsible bodies. It was mentioned that two simple emergency air-purification units had been developed and assembled at the request of a London hospital for removing air pollution from hospital wards. Sir Hugh Beaver, who is chairman of the Government Committee which has just reported, referred to the colossal annual cost which air pollution causes and said any expenditure on smoke clearance would be very profitable. He was convinced that a substantial improvement could be achieved within ten years but there was a difficult financial problem to be faced. This matter was also discussed at the last annual conference of the Sanitary Inspectors' Association when the chief sanitary inspector of Nottingham suggested that action could even now be taken by local authorities by the development of smokeless housing estates; the establishment of smokeless zones; vigorous enforcement of the existing law relating to smoke nuisances; making and enforcing smoke byelaws in industrial areas; appointment of sanitary inspectors to deal with atmospheric pollution: publicity to create a popular demand for clean air; co-operation in the scheme for the measurement of atmospheric pollution; and the smokeless operation of premises used by local authorities.

As to the position of local authorities the Association of Municipal Corporations, in a memorandum to the Government Committee, expressed the view that they are best fitted to deal with problems of primarily local incidents such as air pollution and the Association see no need for any system of Government inspection. It is thought that some of the smaller local authorities might favour the establishment of regional advisory bodies, consisting of representatives of local authorities, to advise on questions relating to air pollution and smoke abatement; and that the advisory bodies should be staffed by appropriately qualified officers and the alkali inspectors appointed by the Ministry of Housing and Local Government under the Alkali, etc., Works Regulations, 1946.

REMAND FOR MEDICAL EXAMINATION

[CONTRIBUTED]

Until 1948 there was no reference in any of the statutes dealing with the functions and procedure of courts of summary jurisdiction to a medical examination at the request of the court of persons remanded in custody or on bail. Magistrates nevertheless on exercising their general power of remand under the Summary Jurisdiction Act, 1848, s. 16, frequently asked prison medical officers for, and obtained, a report on the mental and physical health of a person they had convicted but not yet sentenced. The first statutory notice of this practice occurred in the Criminal Justice Act, 1948, s. 26, the provisions of which are now embodied in the Magistrates' Courts Act, 1952, s. 26, the first subsection of which says that " if, on the trial by a magistrates' court of an offence punishable on summary conviction with imprisonment, the court is satisfied that the offence has been committed by the accused, but is of opinion that an inquiry ought to be made into his physical or mental condition before the method of dealing with him is determined, the court shall adjourn the case to enable a medical examination and report to be made, and shall remand him ; but the adjournment shall not be for more than three weeks at a time."

Under subs. (3), if the defendant is remanded on bail the court can make it a condition of his recognizance that he undergoes a medical examination.

The section, it will be noted, applies only to offences punishable on summary conviction with imprisonment ; it cannot therefore be invoked to obtain a report on, for example, the physical condition of a common prostitute convicted of soliciting in the street to the annoyance of passengers (Metropolitan Police Act, 1839, s. 54) or the state of mind of a deranged person who persists in obstructing the police in the execution of their duty (Prevention of Crimes Amendment Act, 1885, s. 2) which are punishable only with a fine.

It is also to be noted that the subsection says " shall remand," not " may remand " so that when the court has formed the opinion that a medical examination ought to be made, it is obligatory on it to obtain the report by remanding the defendant.

Two questions arise from this. As s. 26 is concerned only with offences punishable in the first instance with imprisonment is there any section dealing with the medical examination of persons convicted of offences for which the only penalty is a fine ? And is the sole purpose of s. 26 (1) to make it mandatory on a court which thinks a medical examination is necessary to obtain that report before it passes sentence ?

The answer to the first question is that nowhere else in the Act is there a specific reference to the medical examination of a convicted person. Section 14 of the Act, however, which confers the general power of a court to adjourn and remand, which was derived from the Summary Jurisdiction Act, 1848, s. 16, applies to all offences, whether the penalty in the first instance is imprisonment or fine, and includes the power to adjourn after convicting the accused and before sentencing him or otherwise dealing with him for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the case (s. 14 (3)).

Can " inquiries " under this section include an inquiry into the physical and mental condition of the accused ? For instance, is a court which remands a motorist convicted of passing a traffic sign in custody for a report about his shortsightedness or colour blindness acting within the powers conferred by this section ? The answer to that depends upon the answer to the second question propounded above as to whether s. 26 was included in the Act merely to compel a court to obtain what it is of opinion it ought to obtain, or whether its object was to confer a power to remand for medical examination and in so doing to define and limit the cases and circumstances in which it must be exercised.

The framers of the Magistrates' Courts Rules, 1952, appear to have taken the latter view, for r. 25, which deals with the particulars to be supplied by a court when asking for a doctor's report on a convicted person, begins with " On exercising the powers conferred by s. 26 of the Act a court shall . . . "

This wording follows that of the Criminal Justice Act, 1948, s. 26 (4) which required the court to supply the same particulars " on exercising the powers conferred by this section." There is no rule about the particulars to be supplied if a medical report is asked for under s. 14 of the Magistrates' Courts Act.

Further the Magistrates' Courts (Forms) Rules, 1952, give alternative forms of commitment after conviction and before sentence, one following the wording of s. 14 (3) and containing no reference to, or space for, a request for a medical examination, and the other following the wording of s. 26 (1).

Parliament has always restricted the power of the courts to interfere with that right to personal freedom which is one of the cherished principles of the English constitution. It has fixed maximum sentences and strictly limited the period of a remand ; it would not be surprising therefore if, in dealing with a practice without any statutory authority which had grown up long after the original Summary Jurisdiction Act was framed, it placed restrictions on so grave an interference with personal liberty as a compulsory medical examination.

As against this, s. 26 does contain subs. (4) which does not indicate any particular care for personal freedom, inasmuch as it empowers a magistrates' court " on committing any person for trial on bail " to " make it a condition of the recognizance taken for the purposes of his committal but subject to the condition of his appearance, that he shall undergo medical examination " or reside in an institution. In other words, the court can, instead of confining itself to ensuring that the defendant will appear at his trial, compel him, unless he prefers to remain in custody, to undergo medical treatment he may not wish to have, although he has not yet been convicted of any offence, and his consent would have been required, if he had been convicted, before such a requirement could be inserted in a probation order.

The inclusion of this subsection in the Act does at any rate imply that magistrates have no inherent right to require a person to undergo a medical examination.

Despite all that has happened since Dicey first delivered his lectures on the Law of the Constitution it is still as true as it was 70 years ago that " the right to personal liberty as understood in England means in substance a person's right not to be subjected to imprisonment, arrest or physical coercion in any manner that does not admit of legal justification."

It is submitted that the only legal justification for a remand by a magistrates' court in order to obtain a medical report on a defendant is that to be found in s. 26. There is therefore

no authority to remand for medical examination a person who has not yet been convicted or who has been convicted of an offence punishable by a fine, or to ask for a medical report on a person who has been committed for trial save under s. 26 (4) when he is on bail.

These restrictions need not hamper magistrates in the administration of justice. Prison medical officers can always submit the result of an examination made with the prisoner's consent. Insanity making a person unfit to stand his trial is normally obvious. No order can be made under the Mental Deficiency Act, 1913, s. 8 against a person who has not committed an offence punishable with imprisonment, neither can a reception order under the Magistrates' Courts Act, 1952, s. 30. And the utility of a requirement in a probation order to submit to medical treatment under the Criminal Justice Act, 1948, s. 4 is very limited when the consequence of a breach can be only the fine (usually small) which might have been imposed on conviction.

SOVIET CORRECTIVE LABOUR CAMPS

By JOHN ELTON

In September a party of English lawyers studying Soviet legal institutions at the invitation of the Soviet Minister of Justice, visited a juvenile corrective labour colony and a corrective labour colony for adult criminals. The English lawyers included two Q.Cs., barristers, solicitors, a law lecturer and the chairman of a rent tribunal, and were of widely differing political opinions.

Both colonies were in the Moscow area. In the juvenile colony were some 380 boys whose ages ranged from 15 to 18 ; the majority of them were orphans who had lost either one or both parents during the war.

The basic aim of the juvenile colony was the completion of the normal secondary school education (with control by the Ministry of Education) followed by vocational training. There was a staff of 22 ; the boys were divided into 15 classes and the school, which was completed in 1953, was a fairly typical school building. Sports facilities for the boys appeared to be adequate. Their dormitories held about 10 to 12 beds with a matron in charge of each house.

The most impressive building in the colony was undoubtedly the clubhouse, with a theatre seating approximately 400 and a variety of small rooms for hobbies, including music (the party sat through a somewhat noisy performance by the colony's brass band).

The colony's " factory " with its workshops for boys in various stages of training appeared well-equipped and there was an effective incentive to the boys to qualify for factory work because they were paid for it ; they obviously took a great pride in the quality of their products.

But perhaps the most interesting feature of the colony from a human point of view was the fact that part of the local village lay within the wooden fence surrounding the colony so that the boys in their off time were free to mingle with the villagers and their children.

At the time of our visit on a Saturday afternoon there was a football match in progress and boys and villagers were mingling freely along the sidelines.

The director proudly showed us his albums of photographs and letters from the boys who had already passed through his hands since 1945 when the colony was opened after the war.

They have a special responsibility for orphan boys, including an obligation to see that they obtain work, accommodation, clothing, bed linen and a cash grant after release until they start earning.

The wooden fence round the colony was readily scaleable and, of course, boys run away from time to time, but the director told us that loss of remission of sentence for escaping provided a fairly effective deterrent.

As in the case of adult offenders there is a review of each case by the court which sentenced the boy every six months and the court is largely guided by the report of the director as to the boy's response while under training.

Both juvenile and adult colonies are regularly visited by representatives of the procurator-general who exercises general supervision over penal institutions ; complaints can be and are made to him.

The boys are entitled to unlimited correspondence, regular visits and parcels from relatives and friends. The majority of the boys we saw had been sentenced for petty theft or hooliganism. When juveniles are on trial the two lay assessors who sit with the professional judge are always school teachers.

The centre and mainspring of the adult corrective labour colony at Krukovo was the factory. In the words of the director : " Our task is to re-educate by means of labour, cultural and political education, by sport and by amateur activity. Every man must learn a trade here, either by study courses or in practical work."

The factory we visited was producing knives, forks, spoons, and kitchen utensils. For their work the men receive wages from which the colony makes a deduction for food and clothing, and they also receive remission of sentence for good work. Prominently displayed on a notice board by the sports field was a printed schedule setting out the remission of sentence for work of all sorts above the daily " norm."

We spoke to one prisoner who in August this year alone had earned 54 days' remission. Prison sentences in general in the Soviet Union appear to be longer than ours, the Soviet authorities taking the view that short term sentences have little effect for the re-education of the offender or for the protection of the public.

Prisoners work an eight-hour day.

The bulk of the 700 or so men in the colony were there for larceny, embezzlement or hooliganism, and some for manslaughter. The men are entitled to unlimited correspondence, three visits a week from relatives, and as a special privilege for good conduct men there are private bed-sitting rooms where their wives can visit them and stay with them in the camp for a week-end. We visited one such bed-sitting room where a man's wife had just arrived from her parents' home in Tashkent to stay for the week-end with her husband.

They have experimented in this colony by permitting the prisoners to elect their own committee with power to report a prisoner to the administration for disciplinary action. The punishments administered are as follows : Personal reprimand ; public reprimand ; deprivation of visits and of other privileges ; loss of remission of sentence, and as a final resort, solitary confinement for three to five days, during which time the prisoner continues to work in the factory.

The director told us that there had been no escapes during the last two years, though the wooden fence could easily be climbed and the camp lay on the main road and main railway line 30 miles from Moscow. Guards during the day were unarmed ; there were 15 in all, working in three shifts.

Amateur circles in the club included music, drama, photography, radio, brass band, sports and the inevitable chess.

We visited the canteen where the men ate at tables for four in a brightly painted dining room and the camp shop where the average turnover per month was about 120,000 roubles. Released prisoners are entitled to a grant for their family until they obtain work, but the result of their factory training while in the colony appears to be that they have little difficulty in obtaining work at the present time.

While our visit was necessarily short, the general atmosphere of these camps suggested that both juveniles and adults were responding well to the methods and training in force.

PARKS AND RATES

We spoke at 116 J.P.N. 35, of the conflict of interest, between local authorities who provide pleasure grounds or similar premises and those among them who are rating authorities. Rightly or wrongly, such premises have in some towns been treated as exempt from local rates, with the consequence that the expense of their upkeep as well as loan charges arising from their original provision are put upon the ratepayers at large. This may seem not to matter much when the rating authority and the local authority providing the ground are the same, without the balancing income that would be obtained from the rates upon other property of the same value. Even then, however, there are cases where the exemption hits some bodies of ratepayers and the taxpayers at large, and the unfairness becomes conspicuous when the ground in question is provided by a local authority which is not a rating authority, as in the case of *Lambeth Overseers* (*alias St. Mary Lambeth*) v. *London County Council* (1897) 61 J.P. 580, commonly called the case of Brockwell Park. The effect of that decision was to throw upon the ratepayers of Lambeth a burden which ought to have been spread over the whole county.

The conflict of interest is not essentially altered by the transfer to the Board of Inland Revenue of the function of making proposals for new valuation, but it may be found that the Revenue is more alert to secure, if it can, that such properties come into rating, and come in at a proper valuation, than were local authorities before 1948. Since we referred to the matter in the above mentioned Note of the Week, confusion has become rather worse. In the early part of this year three decisions of the Lands Tribunal are reported in *Rating and Income Tax*, two being by Mr. Erskine Simes, Q.C., and the third by Mr. J. L. Milne, one of the members of the tribunal who is not a lawyer. In *Bexley Corporation* v. *Draper* (1954) 47 R. & I.T. 431, Mr. Simes was concerned with a pleasure ground of the most ordinary type, provided by a provincial local authority under s. 164 of the Public Health Act, 1875. After reviewing all relevant decisions of the High Court and some decisions of the tribunal, he decided as a matter of law that the premises were not outside rating. In the case before Mr. Milne, *Burnell* v. *Terrington St. Clement Parish Council* (1954) 47 R. & I.T. 172, a parish council had acquired a ground not under the normal provision in s. 8 of the Local Government Act, 1894, which empowers a parish council to provide a recreation ground and gives it for the purpose powers based on those available to a town council or district council providing a pleasure ground, but in virtue of s. 4 (1) of the Physical Training and Recreation Act, 1937, which provides powers partly parallel and partly overlapping. The council had, in virtue of the Act of 1937, accepted a piece of land and became parties to a covenant under which it was to be open for physical training to the public at large, and not used otherwise. On the strength of this deed, the Lands Tribunal, in the person of one of its non-legal members, held that the ground was not liable to be rated, basing this decision on *Burnell* v. *Downham Market Urban District Council*, *infra*, which was itself, as we remarked when it was decided, an extension to new facts of the Brockwell Park decision. Essentially there can (we think) be no doubt that Mr. Erskine Simes's decision was right ; for our part we should say that the same principle ought to extend to all public parks and pleasure grounds. Thus to extend it today would call for legislation, and we should like to see the local government associations agreeing on such legislation—some might seem to lose, but on a long view all would gain by the greater clarity of the law, and by putting the burden on the shoulders best able to bear it, in such cases as that of Brockwell Park, and on the people who will almost exclusively benefit, in such a case as that of Terrington St. Clement.

The issues involved are made more complicated by the variety of statutory powers and methods for providing and maintaining public pleasure grounds and the like. Apart from local Acts or special Acts such as that in question in the Brockwell Park case, *supra*, there are the statutes of 1875, 1894, and 1937, already mentioned, *supra*, and the Open Spaces Act, 1906, which overlaps them all. Section 164 of the Act of 1875 began as a power for the councils of boroughs and urban districts ; it was extended to rural district councils by the Rural District Councils (Urban Powers) Order, 1931, S. R. & O., 1931, No. 580, but has not been much relied on in rural districts, because of the concurrent powers otherwise available. Moreover under the general Acts a local authority may not only purchase land but may accept it as a gift, and, when acquiring land by gift or at a reduced price (and indeed at a full price), may accept restrictions under covenant designed to prevent diversion of the land to other uses. If the decisions in the *Terrington St. Clement* and *Downham Market* cases are correct, a local authority can, by the pure formality of executing a deed binding itself to carry out its own intentions, throw off its liability to rates, which means, if it is a parish council or a county council, that it can throw the burden on to some one else. Among the above mentioned Acts, the powers most commonly used are, we suppose, those of 1875 and 1894 ; county councils do not possess those powers but can proceed under the Act of 1937. Special Acts, like that in the Brockwell Park case, are not common. In London the Acts of 1906 and 1937 are available and there are also local Acts. The distinctions between Acts and procedures are almost wholly technical, and it does not seem right that the position in regard to rating, which means in some cases the position in regard to the liability of ratepayers outside the area of the local authority which maintains the pleasure ground or other piece of land, should depend upon these technicalities.

The doctrine, such as it is, that certain public pleasure grounds are outside rating, depends on the decision of the House of Lords in *Lambeth Overseers* (*alias St. Mary Lambeth*) v. *London*

County Council, supra. That case turned upon its own peculiar facts, including (as we have said above) a special Act of Parliament, and cases in the present century have sprung from attempts (often successful) to extend the doctrine to new facts, and especially to apply it to pleasure grounds or open spaces maintained under the ordinary law.

The artificiality of the distinctions now drawn is thrown into relief by the two decisions of the Lands Tribunal in 1954, already named, and by comparing them with the third, *viz.*: *Weston-Super-Mare Corporation* v. *Escott* (1954) 47 R. & I.T. 23, a decision of the tribunal comprising Mr. Erskine Simes, Q.C., and Mr. J. P. C. Done. In this case, the local authority had purchased land under s. 164 of the Public Health Act, 1875, and had covenanted with their vendors not to use the land for other purposes. So far, the case looks like *Burnell* v. *Terrington St. Clement Parish Council, supra*, but the tribunal reached the opposite conclusion, basing itself on *North Riding of Yorkshire County Valuation Committee* v. *Redcar Corporation and Guisborough Assessment Committee* [1942] 2 All E.R. 589; 106 J.P. 11, and also, it seems, upon the physical aspect of the land, which looked less like a "park" than a portion of the marine parade.

This in itself is odd, when one remembers that Lord Halsbury in the *Brockwell Park* case had rather brusquely laid it down that the status of the park was indistinguishable, during hours when it was open, from that of a highway.

It may be worth while to refresh the reader's memory of some earlier cases. About *Brockwell Park, supra*, we have said enough. In *Liverpool Corporation* v. *West Derby Assessment Committee* (1908) 72 J.P. 397, the local authority which owned the park escaped liability for rating (and thus, as the law then stood, relieved the ratepayers of part of the city by throwing a burden upon another part), because the Court of Appeal was unable to distinguish the case from *Brockwell Park*. The land was held under a local Act, for purposes substantially the same as those of a public pleasure ground under the Public Health Act, 1875, the local Act conferring a power to shut the park for a few days in the year, a narrower power than had been given in regard to public pleasure grounds by s. 44 of the Public Health Acts Amendment Act, 1890. The leading judgment, by Gorell Barnes, P., said the local authority were not occupiers; Fletcher Moulton, L.J., that their occupation was not rateable. (This is the same divergence as appeared in the *Brockwell Park* case between Lord Halsbury and Lord Herschell; the fact that the most eminent Judges can treat the two propositions as the same shows the confusion into which the law can get, once its first principles are overlooked.) In the same context a case a good deal earlier may be referred to, *London County Council* v. *Clapham Union Assessment Committee* (1890) Ryde, Rating Appeals 220, where it was held that the county council were not rateable in respect of Battersea Park, not for either of the reasons just mentioned, but because the outgoings exceeded any possible income, a reason inconsistent with all rating principles.

In *Fulham Metropolitan Borough Council* v. *London County Council* (1951) 115 J.P.N. 532, the borough council had provided a park or pleasure ground under the statutory powers parallel in London to s. 164 of the Public Health Act, 1875. They had, in their capacity of rating authority, treated themselves in their capacity of owners of the park as not being liable for rates upon it, by virtue probably of the *Brockwell Park* decision. But after the war they granted the London County Council the use of a portion of the park for the purposes of the Civic Restaurants Act, 1947, purposes to which the land could not have been diverted under earlier ordinary powers, and this use (not beyond question, as a matter of pure law) continued for some years. In respect of this subsidiary and derivative use the rating authority sought to treat their licensees, the London County Council, as being in rateable occupation of the portion granted to them, and succeeded. Truly a turning of the tables as compared with Brockwell Park, but a decision which leaves untouched the major question.

In *North Riding of Yorkshire County Valuation Committee* v. *Redcar Corporation and Guisborough Assessment Committee* [1942] 2 All E.R. 539, the decision went against the local authority, who by reason of their making a profit from occupation of a strip of foreshore were held to be in beneficial occupation for purposes of rating: a satisfactory result for the county ratepayers of the North Riding, and a useful precedent where the facts are near enough the same, but not affecting the general position and indeed, as we have seen, leaving it open to the courts or to the Lands Tribunal to distinguish a case like *Bushnell* v. *Downham Market Urban District Council, supra*, where a profit is not made.

It remains to distinguish the case of *London Playing Fields Society* v. *Essex (South-west Area) Assessment Committee* (1930) 94 J.P. 241. Here the land in question was owned by a body incorporated by Royal Charter for the purpose of providing playing fields for the use of clubs and persons who could not afford to pay full economic rents. The society had entered into a covenant for the purposes of the Recreation Grounds Act, 1859, but had retained a power to sell. This last was the *ratio decidendi* against the society, *i.e.*, to the effect that the land was rateable. Well enough, so far as it goes, like the *Redcar* decision, *supra*, but not really based on what seems to us the true foundation: any public park or pleasure ground can be sold or appropriated, if the proper formalities are gone through, unless like Brockwell Park it happens to be bound to its present use by special Acts. A deed of covenant, that the land shall be used only for a pleasure ground or similar purposes, may prevent appropriation to other uses under a general statutory power, but can not bind the land except in the local authority's own hand.

What we have called the true foundation seems to us quite simple. It was neatly expressed in Mr. Simes's judgment in *Bexley Corporation* v. *Draper, supra*, where he said: "The council cannot, I think, be described 'as merely custodians and trustees for the public.' In my judgment it occupies this land for the performance of its statutory powers and is in beneficial occupation of it as much as of the sewers, libraries, or public lavatories which it provides for the use of its inhabitants." Some physical objects it is a local authority's enforceable duty to provide, such as sewers, in Mr. Simes's example. Others, such as libraries and sanitary conveniences, it is expected to provide though not compellable to do so. It does all these things well knowing that there can be no profit; yet the use is beneficial —a rent would be paid if the council were not owners, and rateable value can be shown to exist as for any other council property. By statute every property owner is entitled to discharge his effluent into the sewer, and every inhabitant to use the public library; every passer-by, even the stranger within the gates, is entitled to urinate in the convenience provided for that purpose. Since nobody pretends that the public at large is occupier of these properties, even of the urinal, to which it has the fullest access (an access, in our submission, exactly parallel in law to its access to the park) how can it be said, in words used in the Brockwell Park case, that "the public" occupies the park, with the result that the local authority does not, at least, in a rating sense, and therefore that, because "the public" can not be rated, nobody is rateable?

As we said at 116 J.P.N. 35 the decision in the *Brockwell Park* case is not easily reconcilable with ordinary principles

of liability to rates, and the Lord Chancellor and the ex-Lord Chancellor reached their conclusion against rateability along different roads. The principle adopted ought (as it seems to us) to be that public pleasure grounds or parks whatever they are called, under whatever statute they are provided, and whatever restrictions are attached by covenant or otherwise, should come into rating. The restrictions, if any, accepted by covenant or as the case may be, would then go to value only, and not to rateability. In a nutshell, we think the two judgments by Mr. Erskine Simes were right on merits, and should by statute be established in principle as governing all public parks.

THE STATUTORY COMMITTEES TODAY

By IVOR L. GOWAN

In one form or other the statutory committee has been a feature of local government in this country since 1835. Statutory committees must now be set up for the following services :— education, police, children, health, welfare, diseases of animals, small-holdings : in the case of county councils, fire brigades and public health and housing : and, in the case of county councils and metropolitan boroughs, finance. The London County Council is not required to appoint a committee for diseases of animals, fire brigade, and public health and housing. In addition, where a national park lies wholly within the area of one local planning authority, there must be a separate planning committee or separate sub-committee of a planning committee appointed under the Act of 1947.

There has been a change in the pattern of statutory committees since 1939. Except in the case of the county council, there has been a decrease in the number of statutory committees, and in all cases recent legislation has simplified the requirements. From the pre-1939 period, police, diseases of animals, finance, and public health and housing survive. Education, health, welfare, children's, fire brigades, and national parks committees are all provided for in legislation passed since 1944.

The evidence of recent statutes is that the central government and Parliament are convinced of the value of the statutory committee. A working party of the Local Government Man-Power Committee thought otherwise :

" We think it important that the general principle should be that where legislation is introduced for the purpose of entrusting new services to local authorities or of extending or re-arranging existing responsibilities, the bias should be both in favour of leaving it to local authorities to determine whether a separate committee is required and of not prescribing the functions of the committee in legislation."

Shall Parliament insist on certain committees being appointed or shall it be left to the discretion of the authority ? This is a fundamental question on which strong views may be felt on each side. This paper does not attempt to answer the question. Rather does it seek to set out precisely and in detail what the existing statutes demand. This comparative study reveals many variations.

What characteristics are common to all statutory committees ? There are two. First, the relevant Acts prescribe the business that is to be referred to each of these committees, and in certain cases lay down the conditions under which they shall exercise their power. Secondly, the Acts lay down distinct and individual conditions for the membership of each of the statutory committees.

Turning to functions, the usual practice is for the relevant statute to allocate certain business to each of these committees. The National Health Service Act, 1946, gives an appropriate example. The Act commands each local health authority to establish a health committee, to refer all matters relating to the discharge of the functions of a local health authority to this committee, and to consider a report of the health committee before discharging any of these functions. This is as far as the law goes. It does not enforce any delegation of powers to the statutory committee, although the local authority acting under the powers of the Act of 1933 may itself voluntarily delegate any powers to a statutory committee, save that of borrowing or raising a rate.

There are three exceptions to this procedure. The watch committee in a borough, the standing joint committee of a county council, and, where it exists, the national park planning committee of a county council, have certain powers directly conferred on them by statute. Furthermore, the statutory finance committee of a county council is in a special position. No costs, debt or liability exceeding a hundred pounds can be incurred by a county council except upon a resolution of the council passed on an estimate submitted by the finance committee.

In the matter of sub-committees, the education, children's, health, and welfare committees are permitted by the appropriate statutes to delegate any of their functions to a sub-committee. In this respect they differ sharply from committees set up under the Local Government Act, 1933, which confers no such power.

Turning now to membership of the statutory committees, all the Acts in question have some specifications in this field. In one case only are committee members nominated by a body other than the council itself. This is the county council's national park planning committee, where one-third of the members are selected by the Minister of Housing and Local Government. In two cases, the watch committee of a borough and the standing joint committee in a county, conditions are placed on the appointment of councillors for service on the committee. The watch committee is confined to elected representatives, and these must not exceed one-third of the total membership of the council. The standing joint committee must be composed of councillors and justices of the peace in equal numbers.

The fire brigades committee of a county council is in a unique position. This committee must contain representatives of the county districts comprised in the county, though these must be a minority of the committee.

Special conditions for the co-option of people other than councillors to the committees occur in the Education, National Assistance, National Health Service, and Children's Acts. The education and welfare committees must contain persons with special experience of the matters with which they deal, and the latter must contain women as well as men. Children's and health committees may contain suitably qualified people who are not members of the councils. In all these cases co-opted members must remain a minority, though they are not confined to one-third of the membership, as applies in co-option under the Act of 1933.

Provision for the membership of sub-committees of health, welfare, and children's committees represents an interesting feature of the statutory committee system. The health committee

may set up any sub-committees it wishes, of which a majority shall be members of the local health authority or of a local health authority for an area being part of the area of the local health authority ; the welfare committee may set up two distinct types of sub-committee. Where a sub-committee is set up for managing, visiting, or inspecting premises used for the purpose of accommodation under Part III of the National Assistance Act, 1948, at least one of the members must be a member of the local authority or of the committee. For any other type of sub-committee, a majority of members must be members of the local authority or of the council of a county district which is part of the area of the local authority. The children's committee may set up sub-committees, of which only one member need be a member of the authority. Taken together with the wide powers of delegation already described, these powers introduce a remarkable degree of flexibility into the administration of the relevant services, first in associating county councils and district councils, and secondly in affording opportunities for the participation of a number of co-opted members.

To recapitulate, the statutory committee is still of greatest importance in county administration. The main effect of the system is that certain named committees must be set up, regardless of the wishes of the authority, but that, with certain exceptions, complete discretion is given to the authority in granting powers to these committees. Membership of the statutory committees differs in many respects from that of other committees of a local authority, and the powers of co-option and delegation to sub-committees have introduced new and arresting features into local government.

LOCAL AUTHORITIES AND THE HOUSING REPAIRS AND RENTS ACT, 1954

By " ESSEX "

(*Concluded from p.* 749, *ante*)

A cautious tenant, however, will accumulate the repairs increase, which he apparently need no longer pay, because the landlord can, instead of repairing the defects listed in the disrepair certificate, challenge it in county court proceedings for the recovery of the withheld sum and the county court, if satisfied that the house was in good repair and fit at the date of the certificate, can revoke it with retrospective effect. Further the county court, but not the local authority, have to ignore defects, etc., due to the act, neglect, or default of the tenant or any breach by him of an express agreement. However, the court is unlikely to back date a revocation if the landlord is guilty of unreasonable delay in bringing his action.

The landlord has a similar power indirectly to challenge a refusal to revoke a repair certificate after work has been carried out.

The chief sanitary inspector will appreciate how vital are adequate records of the inspection, and registers of applications, and it is also vital for him to obtain good evidence as to whether or not the landlord has served a valid notice of election not to be responsible for internal decorative repair, for if he has, and only if he has, must the certificate ignore that (except in so far as it makes the house not reasonably suitable for occupation).

THE TREASURER—RETAINED ACCOMMODATION

The treasurer will have to advise the council on the financial effect of any proposed exercise of their powers.

The Government will pay, and the local authority must match,

(*a*) An annual sum equal to one half of the notional loan charges over a 60 year period on every house owned or rented by them and retained for temporary accommodation in lieu of demolition. This will last so long as the property is used for housing purposes with the approval of the Minister, and may also be paid in respect of houses already in the council's possession.

(*b*) £3 per year, for 15 years, for each separate dwelling acquired from now onwards, if the Minister is satisfied that the authority's expenditure on maintenance, repair, and improvement of their " patched " houses as a whole is up to the proper level.

The authority's housing revenue account must now include all houses receiving government aid as just mentioned, and also all houses purchased by agreement or compulsorily under s. 16 of the Housing Act, 1936, *i.e.*, where the owner, served with a repair notice under s. 9 of that Act, has successfully contended in the county court that his house cannot be repaired at reasonable expense.

A new power (regularizing a fairly common existing practice) is given to accept, from a mortgagor of a house on which money has been lent by the authority, deposits in anticipation of repair bills and to pay interest on the deposits.

The extent to which certain old controlled houses acquired by a local authority came under the Rent Acts, for limiting the rent if not for obtaining possession, has long been a difficult point. The Act now provides that in six months all will be free of control, so that in future the treasurer will be able to apply the same rent system to all the council's houses.

MISCELLANEOUS AMENDMENTS OF THE LAW

First, and most important, the Rent Acts will not apply to separate and self-contained dwellings erected or produced by conversion after August 30, 1954. The sole exception is the dwelling provided with the aid of a grant under the Housing Act, 1949.

It has been stated that all local authority houses are now free of all rent control—strictly this applies to their lettings and not their houses. Sub-tenancies in council houses are now fully under the Rent Acts, except that if the local authority alter the head rent the lower rent(s) can alter too, and the sub-tenants can be evicted by the local authority if the intervening tenancy is terminated.

Housing associations were previously in no better position than private landlords : now they rank with local authorities.

Private houses coming under the Housing (Rural Workers) Acts were decontrolled, but are not any longer.

For private premises first let after 1939, rent tribunals have always had the duty, on application, to fix a reasonable rent (and the local authority have to keep a register of their decisions). But this fixing was only effective if the result was lower than the standard rent : now, the reasonable rent will be the new standard rent, even if higher, and earlier determinations will become

effective if the landlord serves a notice (four weeks if on a tenant as opposed to a prospective tenant).

In future the decisions of rent tribunals approving an increase in the portion of the rent related to services provided by the landlord will be binding on the tenant, without his agreement and regardless of the terms of the tenancy.

There are other, similar, changes of the law, but they have more tenuous connexions with local authorities.

MISCELLANEOUS INFORMATION

TREASURER'S REPORT ON SCARBOROUGH ACCOUNTS 1953/1954

Alderman F. C. Whittaker and Mr. H. Wilson, respectively chairman of finance committee and borough treasurer of Scarborough are known to a wide circle of local government friends, particularly those whose chief concern is with the financial side of administration. Chairmen of finance committees, treasurers and chamberlains from all parts of England, Scotland and Wales have admired the efficiency with which Scarborough copes with the requirements of a large conference; it is evident from the accounts which we have had the pleasure of pursuing that the financial affairs of the town itself are conducted on the same efficient lines.

Unlike certain British restaurants the catering department of the corporation has made a handsome profit, enabling £7,500 to be transferred in aid of rates. This sum is in addition to £8,600 representing contributions to central administration expenses, general advertising, and rent payments to other corporation departments.

The entertainments department also had a successful year; in fact the income of £167,000 for the 1953 season established a record and the season's activities returned a net surplus of £26,800. £23,600 was transferred in aid of rates in addition to £29,000 paid over to rate accounts for services rendered or rents charged.

The penny rate produces £2,300 and the contributions noted above have done their part in keeping the rate levy for borough administered services down to 7*s.* 1*d.*, a lower figure than was levied in 1945/46. Total rate of 23*s.* 4*d.* includes 16*s.* 3*d.* for the East Riding county council. Rateable value per head is £13 6*s.* 0*d.*—a figure which would debar the receipt of any exchequer equalization grant if the borough stood alone. As part of the administrative county, however, it is entitled to a capitation grant from the county council of some £41,000. In spite of this aid the average ratepayer in Scarborough pays 9*s.* 11*d.* per week in rates—more than his counterpart in many other towns. Doubtless however, he does collect something during the summer from those other ratepayers to lessen his burden. Because of certain savings the rate levied was more than required to the extent of £12,000 and this sum was accordingly added to balances, which at the year end totalled £87,000.

The water undertaking showed a deficit of £2,900 on the year's working due to the council's policy of maintaining existing water charges. Ordinary charges for 1953/54 were 1*s.* 5*d.* in the £ on the general rate assessment of the premises supplied and 1*s.* 3*d.* in the £ on lock-up premises where water is supplied for sanitary purposes only. The same charges are being made for the current year; to meet any resulting deficit there remains a net revenue surplus of £4,400.

At March 31 last, 3,100 houses and flats had been completed and housing finance so managed that rate contributions were limited to the statutory minimum, equivalent to a rate of 6·7*d.* There was a surplus of £29,000 on the repairs fund but Mr. Wilson states that the minimum contribution of £8 per annum is insufficient to provide for future liabilities and suggests that when considering an increase the housing committee should also direct their attention to fixing an annual expenditure limit in order that some measure of budgetary control may be exercised.

ENTERTAINMENT DUTY

Certain societies, institutions and committees may claim exemption from entertainment duty:

(*a*) for performances provided by a body whose aims, objects and activities are partly educational.
(*b*) for certain amateur performances.
(*c*) for certain amateur sports.
(*d*) for exhibitions, and
(*e*) for entertainments provided for partly scientific purposes.

It may not be generally known that by s. 2 of the Finance Act, 1954, a local authority and any committee or sub-committee of a local authority is now included for this purpose. On a claim made by a local authority (but not by a committee or sub-committee) in respect of the exemption for performances provided by a body whose aims, objects and activities are partly educational, or of the exemption for certain amateur performances, the Commissioners shall have regard to the entertainments provided by the local authority, being entertainments which are, or apart from either of those exemptions would be, chargeable on the first scale of duty, and shall treat the local authority as not established or conducted for profit if they are satisfied that these entertainments are not conducted for profit and in considering for the purposes of the first of those two exemptions whether the local authority's aims, objects and activities are partly educational, the Commissioners shall have regard to those entertainments and not to any other activities of the local authority.

On a claim made in respect of exemption for certain amateur sports, the Commissioners shall have regard to the entertainments provided by the local authority, being entertainments consisting of games, races or other sports which are, or apart from that exemption would be, chargeable on the second scale of duty, and shall treat the local authority as established and conducted for the promotion and furtherance of amateur games or sports, and as not established or conducted for profit, if they are satisfied that the local authority provided the entertainments to which they are to have regard for the promotion and furtherance of amateur games and sports, and not for profit.

On a claim made in respect of exemption for exhibitions or for entertainments provided for partly scientific purposes, the Commissioners shall have regard to the entertainments provided by the local authority of a kind to which the exemption relates, and shall treat the local authority as not established or conducted for profit if they are satisfied that those entertainments are not provided for profit.

Under s. 15 of the Finance Act, 1950, entertainments consisting partly of a cinematograph film and partly of some entertainment which by itself would be chargeable on the first scale of duty may be charged at a reduced rate of duty. This arrangement is not affected by the new provisions.

PROBATION IN NORTHERN IRELAND

In his annual report, Mr. C. A. Duke, senior probation officer for Northern Ireland, reports a slight decrease in the number of persons put on probation. The appointment of a full-time officer for County Antrim, however, was followed by an increase of five *per cent.* in the number of persons, both juvenile and adult, placed on probation.

More than 75 *per cent.* of those on probation during the year were guilty of the crimes of larceny and breaking and entering. In this category there were 214 over seventeen years old, most of whom had been gambling and/or drinking. There is an increase in the number of cases of indecency and the number of cases attributable to mental factors shows a marked increase.

Northern Ireland continues the policy of training probation officers for their work, by study courses and lectures. Three officers attended the Home Office training course lasting three and a half months in London. Most of the probation officers attended a course of lectures at Queen's University during the year on "Society and the Criminal."

NOTTINGHAMSHIRE WEIGHTS AND MEASURES REPORT

The effectiveness of the work of weights and measures departments is revealed by the satisfactory reports from most districts, and Nottinghamshire is no exception. In his report for the year ended March 31, Mr. T. L. E. Gregory, chief inspector, states that the wilful adulteration of milk is practically non-existent in the county. This is a marked improvement upon the state of affairs existing a few years ago. The report goes on: "Unfortunately, the proportion of naturally substandard milk sampled (13·9 *per cent.* of the whole) is still too high, and it is to be hoped that milk producers will continue their efforts to eliminate from their herds cows producing low quality milk. This problem is not peculiar to this county and has been experienced throughout the country since the war."

Although short weight in coal and other fuel still causes concern in almost all parts of the country it is satisfactory to read in this report in which some methods of fraud are described, that Mr. Gregory can pay tribute to the majority of rounds-men as honest and hard working. Their reputation, he adds, ought not to suffer from the malpractices of a small minority who usually do not follow the calling for very long at a time.

We all know that in spite of the improved position in relation to the sale of food there are still some traders who adopt deceptive methods, even if they do not always break the law. This report rightly gives a number of examples which may help to put customers on their guard.

The increase in consumer goods available has led to increased competition, which is apparently more acute in some fields than it was before the war. Such conditions, says the report, have revived in certain quarters ingenious deceptions with which the older members of the inspectorate will be only too familiar. The use of the word "butter" in relation to foodstuffs which contain only synthetic butter flavours or a minute and insignificant proportion of butter is typical. The deceptive carton or tin giving a false impression of the quantity of the contents still misleads many a purchaser, although the statutory requirement to state the minimum contents on pre-packed foods affords protection to the purchaser who takes the trouble to look for it and subject, in some cases, to the possession of sufficiently good eye-sight to read the minute inscription. Where there is no such requirement, as in the case of such articles as dentifrice, boot and furniture polishes, soap powders, and detergents, there has been a tendency since the war to conceal increases in price by reduction in the contents of packs whilst maintaining the same outward appearance. This readily deceives the public.

Price tickets are also used by some traders as a means of misleading the public. Here are some examples from the report:

"The reaction of prospective purchasers to price tickets has puzzled many observers and has for a long time been taken advantage of by some traders to deceive the public. Observations on a public market showed that tomatoes labelled '1*s.* 9*d.*' (the price of half a pound) drew many more purchasers than exactly the same kind and quality at the opposite end of the stall marked '3*s.* 0*d.*' (the price per pound). On the same stall mushrooms marked '1*s.* 8*d.*' (this time the price for a quarter of a pound) drew a number of purchasers during the period of observation whilst similar goods on a nearby stall marked 3*s.* 0*d.* (the price for half a pound) found no buyers. In another case, a hawker selling to a football crowd had a price ticket marked '10*d.*' on apples on his barrow. Most of his customers handed over their money and accepted what they were given. A more knowledgeable purchaser who asked for 'a pound' was told the apples were 10*d.* a bag. The bags contained about six ounces whilst similar apples were on sale in nearby shops at 1*s.* 0*d.* a pound."

There is a word of caution about the self-indicating price calculating weighing machine: "Such machines indicate the weight to the purchaser and when the machine is properly placed, the purchaser cannot generally be heard to say that he was deceived as to the weight. The price calculating chart, however, is on the seller's side of the machine and generally not in view of the purchaser. With this type of machine, certain traders habitually place on the scale slightly more than the purchaser has asked for and in some cases make scandalous overcharges for the extra. There is no excuse for this since the price calculator on the sellers' side of the machine indicates the true price with great accuracy. The purchaser, not having the assistance of the mechanical calculator, is perhaps not to be blamed if he usually abandons the task of mentally calculating the value of, say, the extra 1¼ ounces at, say, 3*s.* 7*d.* a pound."

SWANSEA WEIGHTS AND MEASURES REPORT

The public is fairly well aware of the activities of weights and measures inspectors in relation to coal and food, but probably does not realize how the scope of their work has increased and goes on increasing. Some of their reports give a list of statutes and regulations with which they are concerned, and it is quite a formidable list. In his report for the year ended March 31, Mr. F. W. Brown, chief inspector for the county borough of Swansea, states that an increasing amount of work is being performed in the supervision of the sale and marking of fertilisers, and in checking trade descriptions under the Merchandise Marks Acts.

Generally the standard of accuracy of weights and measures was found to be high, but a small number of tradesmen still use defective or unstamped instruments. A number of prosecutions were undertaken for the use of unstamped and unjust instruments. Proprietary brands of food pre-packed in the factory, normally show a high standard in weight values. This was maintained, but it was also pleasing to note that articles pre-packed on retailers' premises showed an improvement, and reached a very high standard. There was, however, one conspicuous case of short weight, resulting in a prosecution, in which tins of tomatoes represented as 3 *lb.* were found to contain 2¼ *lb.* net. Another case of short weight concerned coke. As a result of a complaint, a load of coke to a bakehouse was reweighed and found to be 302 *lb.* short of 10 *cwt.* Proceedings were taken under s. 2 of the Merchandise Marks Act, 1887, and the defendant company was convicted and fined. It will be remembered that for the purposes of the Weights and Measures Acts "coal" does not include coke, *Fletcher* v. *Fields* [1891] 1 Q.B. 790.

That the inspectors have in mind the protection of the interests of others besides consumers and retailers is shown by the following, which relates to the marking of imported foodstuffs in accordance with the Merchandise Marks Acts and Orders made thereunder: "Fresh apples and raw tomatoes are the foods usually involved where incorrect marking or non marking is concerned. These orders, which have been framed primarily for the protection of United Kingdom growers and producers, do not appear to be accepted by many retailers with any degree of seriousness, and constant attention has had to be paid by your inspectors to ensure that compliance with the regulations was maintained."

WELFARE SERVICES IN GLAMORGAN

The report of the Director of Welfare Services for Glamorgan for last year gives an account of the work of the county welfare department including that concerned with the blind and partially sighted persons. Special attention is, however, drawn to the new services which are being provided for those, of whom there are some 3,400, who have applied to be registered under the scheme for providing services for the handicapped. The visiting scheme arranged by the department is being widely appreciated. In regard to admissions to residential accommodation provided under Part III of the National Assistance Act it is stated that the majority of applications are from men due, it is suggested, to their having a greater sense of loneliness and despondency on the death of their wives than is experienced among elderly women.

LAW SOCIETY FINAL EXAMINATION

[By courtesy of the Law Society, we give below the questions for the final examination, as held on Wednesday, November 3, 1954 (2.30 *p.m.* to 5.30 *p.m.*)—*Ed., J.P. and L.G.R.*]

A(1)—THE PRACTICE OF MAGISTRATES' COURTS, INCLUDING INDICTABLE AND SUMMARY OFFENCES; MATRIMONIAL JURISDICTION, BASTARDY, JUVENILE COURTS, TREATMENT OF OFFENDERS, CIVIL JURISDICTION, COLLECTING OFFICERS' DUTIES, THE ISSUE OF PROCESS, EVIDENCE IN CRIMINAL CASES, AND LICENSING.

(*Questions *1, *2 and *3 are compulsory.*)

*1. Robinson, aged 30 years, is charged with larceny. He elects to be tried summarily and pleads not guilty but is convicted. The justices, on being informed of his previous convictions, commit him to quarter sessions for sentence. Before the court has risen, Robinson serves notice of appeal against the conviction and applies to the justices for bail. He states that he wishes to seek witnesses to support his defence. How would you advise the justices?

*2. X issues a summons against Y for wilful damage. The case is heard on June 1, 1954, when Y is fined £5 and ordered to pay X £3 compensation and £3 3*s.* costs. Y has made the following payments on the dates indicated: June 10, £1; July 3, £3; July 10, £3. £7.

In September, Y emigrated to Australia and intends to settle there. How should the clerk of the court have disposed of the amounts that he received from Y and what action may he take regarding the outstanding balance shown in his books as in arrear?

*3. At a meeting of the licensing justices of whom you are the clerk, the view is expressed that there are too many beerhouses in the licensing district. Some of these houses have been operating for about 100 years while others were first licensed during the early part of the present century. One of the justices suggests that at the next general annual licensing meeting, the renewal of many of these licences should be refused. How would you advise the justices?

(*Attempt seven and no more of the remaining questions.*)

4. Mary aged 18 years, was placed on probation for three years in 1952. She then resided in the county borough of A. She and her family have recently removed into the district of an adjoining county petty sessional division. Her probation officer desires to continue supervision and neither Mary nor her parents wish this to be transferred to an officer for the county. May the borough officer refrain from applying to transfer the case to a county probation officer?

5. Jones, while serving with the Army in Cyprus, becomes acquainted with Nicolette, a Cypriot girl. In January, 1953, Jones is drafted to England and has since been discharged from the Army. In June, 1953, Nicolette, who had remained in Cyprus, gives birth to a child. In September, 1954, she travels to England with her baby. Finding that Jones is married, she applies to your justices for a bastardy summons against him. How would you advise the justices?

6. In 1953, Mr. and Mrs. Smith entered into a separation agreement whereby the husband agreed to pay his wife £3 per week in respect of her maintenance and the wife covenanted not to sue for maintenance so long as these payments were continued. Payment has been regularly maintained. In 1954, Mrs. Smith voluntarily relinquishes certain employment and her husband declines her subsequent request for an increased allowance. Mrs. Smith claims that the payments are inadequate and issues a summons against her husband alleging that he has wilfully neglected to maintain her. There are no children of the marriage. How would you advise Mr. Smith?

7. By virtue of a warrant granted under the Gaming Act, 1845, the police have entered a house and seized certain automatic machines and brought their owner, who is the occupier of the premises, before

the justices. The police allege that the machines are instruments of gaming and it is explained that users thereof must insert a coin to manipulate them and that in certain eventualities the users receive a prize from the machine. What test should the justices apply in deciding whether the machines are instruments of gaming? If they so find, what order (if any) may they make (*a*) in respect of the machines, and (*b*) in respect of money found in the machines when they were seized?

8. John aged 13 years and William aged 16 years are charged with larceny and their respective fathers have been required to attend with them at the juvenile court. William's mother appears in her husband's place. The justices impose a fine of £1 against each defendant. Advise whether the fathers may be ordered to pay these fines.

9. One of your justices telephones you and states that a police officer wishes him to authorize the service of a Scottish summons in England. The summons relates to a prosecution for driving a motor vehicle at an excessive speed. How would you advise him?

10. Williams issues a summons against Brown for assault. Brown is not legally represented at the hearing. When asked to plead, he states that he ejected Williams, who, he says, was a trespasser. Williams, in evidence, claims that he was lawfully proceeding along a public footpath across Brown's field. It becomes apparent, as the case proceeds, that Brown disputes the right of the public to use the path. How would you advise the justices?

11. By what procedure do the justices for a petty sessional division select their chairman?

12. An affiliation order has been made at X in favour of Jane against Robert. Payments were ordered to be made to the collecting officer of the court at X. Jane removes to Y and Robert to Z. Jane wishes to apply at Y for an increase in the amount of the order and writes to the collecting officer at X with regard thereto. What advice should he give her regarding the procedure that will be followed?

A(3)—Local Government Law and Practice

*(Questions *1, *2 and *3 are compulsory.)*

*1. What right has a local government elector to attend meetings of his local authority and to inspect their minutes? Would the answer be different if the elector were also a newspaper reporter?

*2. What is the purpose of the exchequer equalization grant, and how is it calculated? (Ignore payments to county districts.)

*3. How may a child come into the care of a county or county borough council? When in care how is such a child to be dealt with?

(Attempt seven and no more of the remaining questions.)

4. The sewage disposal works of the Hightown Corporation are inefficient and the effluent is polluting the River Flumen. What can be done about it by the parties interested in the River Flumen?

5. (*a*) Your client Smith was involved in an accident in 1952 with a lorry owned and operated by the Mudbury Corporation. His car was smashed and he himself suffered a broken leg. He now wishes to sue the Corporation. Can he do so? (*b*) Would your answer be different if the lorry had belonged to a commercial company? (*c*) Or if the accident had occurred in 1950?

6. How is the footpath survey under the National Parks and Access to the Countryside Act, 1949, to be carried out?

7. The Mudhampton Rural District Council wish to provide a water supply for three parishes out of the 10 in their district. (*a*) From what sources if any are grants available, and (*b*) how will the balance of the cost be met?

8. Who controls and pays for the Metropolitan Police?

9. What authorities have power to organize school crossing patrols? What powers have the patrols?

10. What is the procedure for the election of a borough alderman? What recent changes have there been in this procedure?

11. In the county borough of Blacktown there is a railway line vested in the British Transport Commission. Connecting with it is a branch line belonging to, and serving the docks of, the Blacktown Harbour Co. Ltd. How are these two lines dealt with for rating purposes?

12. Robinson, who lives in a rural part of Loamshire, feels that insufficient provision has been made by the county council for the education of children in his area, with the result that some children are not getting proper education. He had already complained to the county council without effect. He asks you what he can do to make them do something. Advise him.

ROAD ACCIDENTS—SEPTEMBER AND OCTOBER

Road casualty figures for October show an increase compared with a year ago of 3,507, or nearly one-fifth.

The provisional total is 22,326. This total includes 485 fatal injuries, an increase of 39; 5,298 serious injuries, an increase of 658; and 16,543 slight injuries, an increase of 2,810.

Final figures for September give a total of 22,614. This was 2,215 more than in September, 1953, although the number of those who died, 425, was seven less. The seriously injured rose by 423 to 5,408; and the slightly injured by 1,799 to 16,781.

Casualty figures for each of the main groups of road users in September were:

Pedestrians	5,370 (168 deaths)
Pedal cyclists	4,849 (68 deaths)
Motor cyclists	4,404 (91 deaths)
(including motor-assisted pedal cyclists)	
Drivers	2,346 (34 deaths)

Compared with a year ago, casualties to drivers other than motor cyclists, increased by 599, or more than one third. Casualties to pedestrians were seven *per cent.* higher.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Jenkins and Birkett, L.JJ.)

WATSON *v.* SECRETARY OF STATE FOR AIR

November 12, 1954

Compulsory Purchase—Compensation—Assessment—Agricultural holding—Yearly tenancy—Market value of two years' tenure, not loss of profit for two years—Acquisition of Land (Assessment of Compensation) Act, 1919 (9 *and* 10 *Geo.* 5, *c.* 57) *s.* 2, *rr.* 2, 6.

Case Stated by Lands Tribunal.

Part of an agricultural holding, held by the claimant on a yearly tenancy, was compulsorily acquired under the Defence Act, 1842. The notice to treat was dated May 18, 1951, and the earliest date on which the tenancy could then have been terminated was May 12, 1953. Compensation for disturbance was agreed at £76. On the question how the compensation for the interest in the land of the tenant should be assessed under s. 2 of the Acquisition of Land (Assessment of Compensation) Act, 1919.

Held, the claimant was entitled under r. 2 of s. 2 of the Act of 1919 to the market value of his two years' interest in the land, *i.e.*, the value of the crop for the first season and what some purchaser in the market might be willing to give for the right to farm for a second year, but under r. 6 he was only entitled to the costs of removal agreed at £76 and not for the loss of profit for the second year.

Counsel: *J. G. Kekwick*, for the claimant; *B. S. Wingate-Saul*, for the Secretary of State for Air.

Solicitors: *Herbert Smith & Co.*; *Treasury Solicitor.*

(Reported by F. Guttman, Esq., Barrister-at-Law.)

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Before Davies, J.)

FORBES *v.* FORBES

October 6, 7, 8, November 1, 1954

Desertion—Constructive desertion—Wife's confession of love for another man—Request to husband for help.

Petition for divorce.

The parties were married in 1940 and there were two children of the marriage. In the summer of 1949 the wife fell in love with one W. On May 25, 1950, the wife told the husband that she was in love with W and asked him (the husband) to help her to overcome this feeling. There was a conversation between them which, the husband alleged, convinced him that the wife had committed adultery with W, and on May 29 he left the matrimonial home. On July 6, 1953, the husband presented a petition for divorce on the ground of desertion, alleging that by her conduct she had made him believe that she had committed adultery, that he had in consequence left the matrimonial home, and that she had, therefore, deserted him. The wife denied desertion and cross-prayed for a divorce on the grounds of the husband's desertion.

Held, (i) the husband did not believe that the wife had committed adultery, but, even if he did, there were no reasonable grounds for it, and his petition would be dismissed.

(ii) the fact that a wife confessed to her husband that she was and had been for some time in love with another man and wanted his help to put an end to that situation would not amount to just cause for her husband leaving her; on the contrary, it was the husband's duty to afford his wife all the help that he could; accordingly, when the husband left the matrimonial home on May 29, 1950, he left without just cause and deserted her, and a decree would be granted in her favour.

Counsel: *P. M. Wright, Q.C.*, and *R. F. Ormrod* for the husband; *Miss M. Morgan Gibbon* for the wife.

Solicitors: *F. J. Stewart & Co. Copley Singleton & Billson.*

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 101.

SELLING FIREWORKS TO A CHILD—A SUCCESSFUL DEFENCE

At East Ham magistrates' court on November 11 last, a shopkeeper was summoned at the instance of the local council for unlawfully serving a child of 11 years of age with fireworks, in contravention of s. 31 of the Explosives Act, 1875.

After a submission by defending solicitor as to the form of summons, an amendment was made to it by substituting for the words " a child of 11 years " the words " a child apparently under the age of 13 years."

Evidence for the prosecution was given by a council official that on November 1 last, a boy 11 years of age was served with fireworks by the defendant. The witness said that the boy had told him that he was only 11 and had added that the shopkeeper had not asked him his age.

In cross-examination the witness agreed that the boy was big for his age and he had told him that he had often been asked to pay full fares on buses.

Defendant, who pleaded not guilty, gave evidence that he thought the boy was over 13. The boy, who was called as a defence witness, was seen to be well above the average size for a boy of 11 and might well have passed for 13. The boy confirmed that he had often been asked to pay full fares when travelling on buses.

For the defence, it was submitted that the boy was " apparently " 13, and that in the circumstances no offence had been committed.

The court dismissed the summons, and granted an application for costs by the defendant by awarding £1 1*s.* against the council.

COMMENT

Section 31 of the Act of 1875 prohibits in terms any person selling gunpowder to any child apparently under the age of 13 years, and at first blush it might seem to be rather strange language to suggest that the selling of fireworks can be punished under this section. It is, however, provided by s. 39 of the Act that the provisions of the Act relating to gunpowder shall apply to every other description of explosive. By s. 104, power was given for Her Majesty by Order in Council to declare that any substance which appears to be specially dangerous to life or property is to be deemed to be an explosive within the meaning of the Act, and Orders in Council have subsequently been made declaring fireworks to be explosives within the meaning of the Act.

It is surprising that this cumbrous means has had to be taken to apply the provisions of s. 31 to fireworks, for the fact that fireworks were clearly well known in 1875 is evidenced by s. 80 of the Act, which prohibits the throwing of fireworks in highways or public places.

Another criticism of s. 31 which may surely be fairly made is that it is difficult to understand why it should be considered undesirable to sell fireworks to someone apparently under the age of 13, but permissible to sell them to a child of 13 and over. In recent years at any rate, the undeniable nuisance caused by the letting off of fireworks must surely be attributed more to those over 13 years of age, than to those children of more tender years who have not yet learned how to make the maximum nuisance of themselves to their fellow men. R.L.H.

No. 102.

AN UNDERPAID FARM WORKER

The Haywards Heath magistrates sat for five hours on October 25 last to try a Cuckfield farmer upon two charges under the Agricultural Wages Act, 1948. The charges alleged that the farmer, being an employer of workers in agriculture in a case to which minimum rates of wages made effective by an Order of the Agricultural Wages Board were applicable, had failed to pay wages at not less than the minimum rate to one of his workers, contrary to s. 4 (1) of the Act and the aforesaid Order of the Agricultural Wages Board.

For the prosecution, evidence was given that a 16 year old youth was at defendant's farm for a year from July 31, 1953, after receiving training elsewhere.

The youth described in detail what he called a typical day's work. The day began at 6.30 *a.m.* and continued until 9.45 *p.m.* The youth said he was given 2*s.* 6*d.* in cash most weeks and sometimes 10*s.* Defendant kept the balance in a jam jar and later in a box. Some was transferred to a Post Office Savings Account for him and some was spent on clothes. When he went home for week-ends on two occasions he was given extra money.

It was stated for the prosecution that the youth was entitled to a basic wage of £3 4*s.* a week, plus overtime, and a statement was put in which showed that on the working hours alleged by the youth he had been underpaid in the year that he was at the farm to the extent of £222.

The defendant and his wife both gave evidence and said that for the first six months at the farm the youth, who was not properly trained, did little more than " potter about." They denied that he had worked the long hours he claimed. It was agreed between the prosecution and defence that £30 2*s.* 6*d.* had been spent on clothing for the youth and £15 5*s.* paid into the Post Office for him. Defendant agreed, in cross examination, that on his own figures there were several instances in which the youth had been underpaid in connexion with work on Saturdays and Sundays.

The court decided to convict and fined the defendant a total of £5 and ordered him to pay £12 9*s.* costs. The prosecution asked that the defendant be ordered to pay arrears of wages for the obligatory period of six months and further asked the court to exercise their discretionary power to order the defendant to pay arrears of wages for the first six months that he had worked at the farm.

The chairman said that on defendant's own calculations he owed the youth £21 15*s.* for the six months prior to the issue of the summons and an order was accordingly made for payment of this amount. No order was made in respect of the first six months.

COMMENT

Section 4 of the Act of 1948 provides that if an employer fails to pay a farm worker wages at a rate not less than the minimum rate fixed by Order he shall be liable on summary conviction to a fine of £20, and to a further fine of £1 a day for each day on which the offence is continued after conviction. The section further provides that in proceedings brought under the section the court shall, whether there is a conviction or not, order an employer who has paid less than the minimum rate applicable, to pay to the worker concerned the difference between the amount which the worker should have received during the preceding six months and the amount he actually received.

(The writer is greatly indebted to Mr. A. H. Chandler, clerk to the Haywards Heath justices, for information in regard to this case.)

R.L.H.

PENALTIES

Newcastle—November, 1954. Permitting oil to escape from a ship into the Tyne. Fined £50, to pay £5 5*s.* costs. Defendant the master of a very large liner.

Manchester—November, 1954. Shoplifting (two charges). Fined £100. Defendant, the 34 year old wife of a clothing manufacturer, asked for seven other cases to be taken into consideration.

Biggleswade—November, 1954. (1) Driving a lorry while disqualified. (2) Driving while uninsured. (1) Six months' imprisonment, fined £50 and disqualified from driving for 15 years. (2) Three months' imprisonment (concurrent). Defendant, a 40 year old motor engineer with 29 previous convictions, had on 10 previous occasions been before the court on charges arising from driving while disqualified.

Marlborough Street—November, 1954. Stealing clothing value £6 13*s.* 7*d.*, from a store in Oxford Street. Fined £100, to pay 20 guineas costs. Defendant, the 32 year old Iranian wife of a merchant and landowner, had travellers' cheques to the value of £350 on her when arrested.

Prestatyn—November, 1954. Making a false National Insurance statement. Fined £10, to pay £4 4*s.* costs. Defendant stated that he had been in receipt of injury benefit whereas he had been at work during part of the period and in consequence he had been overpaid £2 7*s.* 3*d.*

Littledean—November, 1954. Causing grievous bodily harm. Fined £8, to pay £7 3*s.* 2*d.* costs. Defendant, a former guardsman, with a reputation for boxing, hit a man so hard that the man lost consciousness and suffered a broken cheek bone necessitating three days in hospital.

Long Ashton—November, 1954. No wireless licence. Fined £10. Defendant said he had overlooked getting a licence since 1947.

Stockton—November, 1954. No wireless licence. Fined £10. Defendant admitted having used a set without a licence since 1944.

Salisbury—November, 1954. Causing unnecessary suffering to a dog. Fined £25 and disqualified from keeping a dog for 10 years. An N.S.P.C.A. chief inspector described it as the worst case in his experience. The dog, which had to be destroyed, weighed only 23 *lb.* instead of the 60 *lb.* or more that it should have weighed.

REVIEWS

The Housing Repairs and Rents Act, 1954. By S. W. Magnus. London : Butterworth & Co. (Publishers) Ltd. Price 22s. 6d. net.

The Housing Repairs and Rents Act, 1954, and the Landlord and Tenant Act, 1954, which is we understand to be dealt with in a companion work to the present, are both complicated, as well as being important to the property owner and his tenants and to local authorities. It follows that they are important also to the general practitioner in law, who is likely to find a number of problems presented, especially (so far as the Housing Repairs and Rents Act is concerned) in the part of that Act which bears on rent restriction.

The present work follows the pattern standardized by Messrs. Butterworth for dealing with current legislation. That is to say, there is an introduction explaining the background to the Act and dealing with each of its parts in narrative form. Broadly, Part I is the concern of local authorities and of course of property owners, and Part II of property owners and their advisers, with important functions assigned to local authorities. The book then proceeds to annotate the Act, section by section, and where necessary subsection by subsection. These notes will be found by the practitioner or the local government official to be especially valuable for their references, not merely to the previous law but to events in Parliament, and in some cases references to official publications. There are also valuable examples of the working of some provisions, in application to houses in London and the provinces respectively. After this full annotation of the Act of 1954, the book proceeds to set out the relevant provisions of the Housing Acts from 1936 to 1952, showing what repeals and amendments are now made, and then does the same for the Rent Restrictions Acts from 1920 to 1949. In appendix II the relevant statutory instruments are set out, up to the date of publication which was September, 1954. We do not think that the local government official concerned with these Acts, or any solicitor in ordinary practice (or indeed an estate agent dealing with the common types of property) can afford to be without this book.

Deprived Children. By Hilda Lewis, M.D., M.R.C.P. Published for the Nuffield Foundation by the Oxford University Press, London. Price 9s. 6d. net.

This book is a record of the result of an experiment sponsored by the Nuffield Foundation in establishing at Mersham in Kent a reception centre for children, and is drawn from the author's experience as psychiatrist to the centre together with a follow-up of nearly half those who had left the centre two years previously. Some 500 children are included in the study, of whom there were 200 in respect of whom a " fit person " order had been made, and a further 75 for whom such an order was made later on the centre's recommendation. Some 75 *per cent.* of the children visited after discharge were in good or fair condition compared with 40 *per cent.* at reception but for this credit must be given at any rate in part to the subsequent public care which they received. The aim of the centre was both to do the best for the children but also to accumulate data which would throw light on the relation of cause and effect in their lives. A twelfth of the children were recommended for return home and a fifth for a foster-home.

After describing the centre and its work the author gives a careful account of the mode of admission, family background and previous personal experience of the children followed by a study of the influence of family and environment on their behaviour. Perhaps, however, the most valuable part of the book is concerned with the inquiry into what happened to the children after they had left the centre, and the author's resulting reflexions on the scheme generally. She suggests that the continuous contact with an adult, which helps children over awkward crucial stages of their re-adjustment after they have left their parents, might best be attained by allocating each child from the outset to an individual welfare officer who would be responsible for everything that had to be done for him by the children's department. Dr. Lewis expresses some interesting, and clearly sensible, views on the question as to whether a child who is in the care of a local authority should go to a foster-home or be in a residential home ; and shows that if there is still a close link between the child and his parents it is unlikely that a foster-home will prove successful ; and that a foster-parent will seldom tolerate or favour a continuing contact between a child and his real mother and father.

It is now the accepted policy of the Home Office that reception centres should be provided generally by children's authorities but Dr. Lewis offers a salutary warning that a bad reception centre is probably worse than none at all. In conclusion she is cautious in her views that, for the present, reception centres must be judged in the light of general experience of their work, amplified perhaps by systematic findings such as it has been the intention of this study to offer.

This book is certainly a valuable addition to the literature on Child Care and the Nuffield Foundation, as in many other spheres, has done a useful piece of work in making the experiment possible. It seems a pity, however, that another title could not have been found for the book and that there should be so many references in the text to " deprived children." In the past, many children suffered from being labelled as " pauper children " and there is a risk of the expression " deprived child " getting into the same disrepute. It would be well if the Home Office would do something to discourage the use of the expression at any rate by their own officials and by officials of local authorities.

Harris's Criminal Law. Nineteenth Edition. By H. A. Palmer, M.A. (Oxon.) and Henry Palmer, M.A. (Oxon.), Barristers-at-Law. London : Sweet & Maxwell Ltd., 2 and 3, Chancery Lane, W.C.2. Price 32s. 6d. net.

First published in 1877, *Harris's Criminal Law* has become a firm favourite with students, and is also highly appreciated by practitioners and police officers. It is completely comprehensive, dealing with criminal offences of all kinds, some common and some practically obsolete. The common law misdemeanour of maintenance was discussed recently in the High Court, and this, together with champerty and barratry are defined here. Crimes that are much more familiar today naturally receive fuller treatment, and the explanations are always lucid and illustrated by the citation of relevant cases. There is a section on summary jurisdiction, brought up to date in accordance with the Magistrates' Courts Act, and although the work is one on criminal law there is a concise and useful statement of the civil jurisdiction of magistrates.

The book is of convenient size, well arranged, and made easy of reference by the use of many headings in bold type. Of course it is not only a book of reference, it is also a text book which makes pleasant reading for any student of criminal law, professional or amateur. The learned editors have revised the work up to July 1, and have included in the addenda a certain number of statutory provisions and cases which could not be included in the text itself.

Williams on Wills, Supplement. By W. J. Williams. London : Butterworth & Co. (Publishers) Ltd. Price 10s. 6d. net.

This supplement brings up to date as at September 1, 1954, the two volumes of the main work to which, upon its publication, we called attention as being in some respects novel and particularly valuable. The supplement follows the familiar form of a noter-up page by page ; the learned editor has also provided a few additional clauses and two new complete forms of wills, for use in special cases. More than 200 references to decisions of the English Courts have been included, and there are also many references to Dominion cases. In fact practically all Dominion cases of which reports are available in London have been mentioned. This is of primary importance to practitioners overseas who rely upon the main work, and lawyers in this country should not overlook such cases. Although a Dominion decision will not be binding on the English court, it may give guidance, and where there is no English decision directly in point the draftsman of a document can usefully consider how words have been interpreted in the overseas common law countries. There are also a number of words and phrases used in wills, indexed at the end of Part I of the noter-up.

As a whole, the practical character of *Williams on Wills* is maintained and enhanced by the additional matter here provided. The price of the main work in two volumes and the supplement is seven guineas net.

Underhill's Law of Trusts and Trustees. Fourth Cumulative Supplement to the Tenth Edition. By M. M. Wells. London : Butterworth & Co. (Publishers) Ltd. Price 6s. net.

This supplement brings the main work up to date as at September 1, 1954. The former cumulative supplement appeared a year ago and in the interval the Charitable Trusts (Validation) Act, 1954, has come into operation. The Act is summarized in detail in the supplement, and noted up where necessary. The learned author duly points out in the preface that it is of limited application. In the same period since the last cumulative supplement, there have been important decisions by the House of Lords in regard to trusts for settled estates, bearing upon the liability to tax. Here again the limits of the effect of the new law as now declared must be noticed, and are duly mentioned in the preface.

In addition there have been noteworthy cases about the nature of a general charitable intention, and there have been practice directions as to costs. The supplement runs only to 34 pages, but they are packed with information of importance to the legal profession. As it is some time since the main work appeared, it should perhaps be added that it is available with the present supplement at a combined price of 77*s.* 6*d.* net.

PERSONALIA

OBITUARY

We announce with regret the death of His Honour Whitmore Lionel Richards, who was County Court Judge of Circuit No. 7 comprising parts of Cheshire, Lancashire and Shropshire, from 1922 until his retirement in 1942.

Judge Richards was the youngest son of John Henry Richards (who was County Court Judge and Chairman of Quarter Sessions for the County of Mayo) and a grandson of the Rt. Honourable Baron Richards of the Irish Court of Exchequer. He was born in 1869 and educated at Rugby, and Trinity College, Dublin, where he took his B.A. degree. Called to the Bar by Lincoln's Inn in 1895 he joined the Midland Circuit and Birmingham Sessions and also practised at the Chancery Bar in London. He was the joint editor of *Godefroi's Law of Trusts* (3rd edn).

We announce with regret the death of Mr. Kenneth Maclean Marshall, C.B.E., who was for 22 years a metropolitan magistrate.

He was the third son of the late Francis Marshall of Edinburgh and was born on May 16, 1874. Educated at Rugby, and Trinity College, Cambridge (where he graduated LL.B. in 1896) he was called to the Bar by the Inner Temple in 1900 and joined the North Eastern Circuit. In 1910 he was appointed a Deputy Judge Advocate-General and served in that capacity throughout World War I. For his services he was made a C.B.E. in 1920.

In April 1922 at the recommendation of the then Home Secretary (Mr. Shortt) he was appointed to fill a vacancy on the Metropolitan Bench. Marshall made an excellent magistrate, experienced in the ways of the world after his experience with Courts-Martial in France, but not prone to lecture or court publicity. In particular he excelled as the permanant magistrate at the Children's Court of Westminster and his qualities were especially appreciated by the lay magistrates sitting in that court.

We announce with regret the death of Charles Thomas Le Quesne, Q.C., at the age of 69.

He was a member of an ancient Jersey family and was born at St. Helier on November 3, 1885, the eldest son of the late Charles John Le Quesne.

He was educated at Victoria College, Jersey and at Exeter College, Oxford, where he took a first class in Honour Moderations in 1906 and a first class in Lit. Hum. in 1908.

In 1912 he was called to the Bar by the Inner Temple and soon acquired a substantial commercial practice. He took silk in 1925 and many expected that he would in due course be elevated to the Bench having regard to his success as a leader.

However, this was not to be, although he acted three times as a Commissioner of Assize. As Master of the Library of the Inner Temple when it was demolished by bombing in 1941 he took a prominent part in the rescue of the books and the re-opening of the new temporary Library in 1944.

Mr. Robert Strother-Stewart, a former Judge of the Supreme Court of the Gold Coast Colony, has died at the age of 76. Mr. Stewart, for many years a prominent figure in the life of Newcastle-on-Tyne, was admitted a solicitor in 1905, and from 1909 to 1912 was a member of the Newcastle Board of Guardians. In 1919, he was called to the bar by the Inner Temple, and afterwards practised on the north-eastern circuit. After legal service in Trinidad and Malta, and with the Colonial Office, Mr. Stewart was made a Judge of the Supreme Court of the Gold Coast Colony, on occasion acting as Chief Justice, holding that position from 1933 until 1942, when he returned to England.

Mr. Samuel Lord, a former borough treasurer of Acton and president of the National Association of Local Government Officers in 1922, has died at the age of 76. Mr. Lord had been actively associated with N.A.L.G.O. since 1905, and was to have been jubilee president next year.

Mr. Harold Heath Payne, former registrar at Portsmouth and Southampton, has died at the age of 74. Mr. Payne was admitted in December, 1901, and practised at Portsmouth from 1901 to 1922. From 1922 until 1952, he was whole-time registrar at Portsmouth and Southampton county courts and district registrar for the High Court. Mr. Payne was president of the Hampshire Incorporated Law Society in 1933, and from 1937 until 1938 was president of the Association of County Court Registrars.

Mr. John Baston, clerk of Glendale, Northumbs., rural district council, has died suddenly in his early forties. Mr. Baston was appointed in July, 1951, and was previously clerk of Loftus, Yorks., urban district council.

Mr. John Dempsey, who was for nearly 20 years coroner's officer at Bristol, has died.

The Hon. Ewan Alexander McPherson, Chief Justice of the Appeal Court at Manitoba, Canada, has died at the age of 75. He was Chief Justice in the Court of King's Bench of Manitoba from 1937 until 1944, when he took up the position he held at his death.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

Replying to an adjournment debate in the Commons on the question of obscene publications, the Joint Under-Secretary of State for the Home Department, Sir Hugh Lucas-Tooth, rejected a suggestion that a committee should be set up to consider the law relating to " objectionable magazines."

He said that the issues were questions of definition and of procedure, and in the Government's view those were matters which did not lend themselves to investigation by a committee.

The enforcement of the law regarding obscene publications was not a matter for the Home Secretary, who could not give instructions to anyone regarding a prosecution. The question of prosecutions was a matter for the chief constables and the Director of Public Prosecutions.

" The Director of Public Prosecutions has seen a number of these objectionable magazines and he has expressed the view that proceedings in respect of such publications are unlikely to be successful " said Sir Hugh. He added that if it was desired to take more or less stringent action in the courts against any class of publication, it would be necessary to amend the law.

LEGAL AID

Brigadier F. Medlicott (Norfolk C.) asked the Attorney-General if he would consider amending the legal aid scheme so as to allow a prospective defendant to submit evidence tending to show why a certificate of legal aid should not be granted to the prospective plaintiff.

The Attorney-General replied that he appreciated the object which Brigadier Medlicott had in mind. Under regulations made this year an area committee might discharge a certificate for legal aid when, as a result of information coming to its knowledge, it considered that an assisted person no longer had reasonable ground for taking, defending or being a party to the proceedings or that it was unreasonable for him to continue to receive legal aid. The prospective defendant was not precluded from making representations which might lead to the certificate being discharged under that provision. Consequently he did not think that there was now a need to amend the legal aid scheme in the way suggested.

Brigadier Medlicott asked if the Attorney-General would introduce legislation to extend the legal aid scheme so as to give the judges power to order that, where a plaintiff legally aided under the scheme was unsuccessful in an action, the taxed costs of the defendant should be paid out of the legal aid fund.

Replying in the negative, the Attorney-General said that that problem had been fully considered by the Rushcliffe Committee and during the passage of the Legal Aid and Advice Act, 1949, by the House of Commons. It would no doubt be fully reconsidered when a general review of the Legal Aid and Advice Act took place.

He said that the fact that an assisted person was not called upon to make any contribution to his own costs did not mean that he might not find himself ordered to pay towards his successful opponent's costs a sum which was a reasonable one for him to pay, having regard to all the circumstances, including his conduct in relation to the dispute.

In reply to another question, the Attorney-General stated that the cost to the Exchequer of the legal aid scheme up to March 31, 1954, had been £2,508,000.

PERSONALIA

APPOINTMENTS

Mr. Christian Gerard Timperley Berridge, deputy clerk to Essex county council, has been promoted clerk in succession to Mr. John Edward Lightburn, who has retired. Mr. Berridge was admitted in October, 1927; Mr. Lightburn in May, 1914.

Mr. Norman John Skelhorn, Q.C., recorder of Bridgwater, Somerset since 1945 has been appointed recorder of the city of Plymouth. Mr. Skelhorn was called to the bar by the Middle Temple in 1931, and thereafter practised on the western circuit. Six years after his present appointment, Mr. Skelhorn became chairman of the Isle of Wight county quarter sessions. He took silk in April of this year.

Mr. Harold James Cook has been appointed a court clerk at the London quarter sessions. He is a member of the bar, having been called in the Michaelmas Term, 1952, by Gray's Inn. Since then he has been in the metropolitan magistrates' service, first at Bow Street, and from November 3, 1953, as deputy chief clerk at Thames magistrates' court.

Mr. Frederick Finch, 32 years of age, has been appointed full-time probation officer for the city of Salford, Lancs., in place of Mr. G. K. Steele who has resigned from the service and taken up an appointment in the legal profession. Mr. Finch has been a full-time probation officer in the petty sessional division of Grimsby, Lincs., since April 20, 1953.

Mr. R. W. Spiers, who has been probation officer in the Berkshire probation service for three years, has been appointed an inspector in the probation division of the Home Office.

Mr. Henry Watson, chief inspector of police at North Walsham, Norfolk, is to become superintendent in charge of Dereham police division, also in the county of Norfolk. Mr. Watson has been a year at North Walsham and takes up his new post on December 8.

Mr. H. W. P. Davison, a section head in the general accountancy section of the Hertfordshire county council, has been appointed deputy county treasurer for Oxfordshire.

Mr. George Leach Whiteside, B.A. (Oxon.), has been appointed assistant solicitor to the justices of the Manchester petty sessional division in succession to Mr. M. E. Holderness, details of whose appointment as clerk to the Lanchester, Consett and Stanley petty sessional division, Co. Durham, were given at 118 J.P.N. 612. Since his admission in June, 1952, Mr. Whiteside has been engaged in general practice in South Wales. He was articled to his father, Mr. James Whiteside, an editor of *Stone*, and continued his articles with Sir Sydney Littlewood of the firm of Wilkinson, Howlett and Moorhouse, of London. Both Sir Sydney and Mr. James Whiteside are former presidents of the Justices' Clerk's Society.

Chief Inspector Clifford Ford, who has been acting superintendent of Bath city police force since September, has been appointed superintendent and deputy chief constable. There were 74 applicants for the post, which became vacant when Mr. Frank Skirton committed suicide, and Mr. Ford was eventually chosen from a short list of 19. Mr. Ford rose through the ranks, after entering the Bath force in February, 1930, as a uniformed constable.

Mrs. Upstone, of Holme, via Carnforth, has been appointed part-time woman probation officer with Westmorland county council, with effect from November 1. Mrs Upstone succeeds Mrs. Snowdon of Burnside, nr. Kendal, who has held the post since September 1, 1950.

Mr. A. W. E. Francis, deputy treasurer to Haslemere, Surrey, urban district council, has been appointed deputy financial officer to Hambledon, Hants., rural district council.

Mr. C. W. Virgo, deputy borough treasurer, Bermondsey metropolitan borough council, has been recommended for appointment as borough treasurer in succession to Mr. James Mewby, borough treasurer since 1947, who is resigning on health grounds.

RETIREMENTS AND RESIGNATIONS

Mr. Cyril Henry Wallace Pugh, M.B.E., M.A., B.C.L. (Oxon.), is retiring from the position of clerk to the Oswestry, Salop, rural district council, after holding the office for 27 years. Mr. Pugh was admitted in December, 1919.

Mr. John Crompton Holt, M.A., B.C.L., a solicitor with Buckinghamshire county council since 1946, is leaving the council to join the Aylesbury firm of solicitors, Parrott and Coales. Mr. Holt was admitted in October, 1939.

Mr. L. A. Rothwell, treasurer to Middlesex county council, is retiring after 40 years' service.

Sir Clifford Radcliffe, C.B.E., D.L., M.A. (Cantab.), clerk of Middlesex county council, is to retire on December 18. His tenure of office was prolonged for one further year from last December, when Sir Clifford reached the age of 65. His tenure of the office of clerk of the peace for Middlesex was also extended for three further years at the invitation of the standing joint committee. Sir Clifford has served with the county council for 35 years, commencing as deputy clerk of the council, and deputy clerk of the peace in 1919. He held these posts until 1935, when he was promoted to his present position, also becoming clerk of the peace. Sir Clifford has also been county solicitor from 1923—he was admitted in July, 1916.

THE SPUR OF THE MOMENT

There is a pleasing story of a public figure at an official dinner, whose deprecating manner and studied air of nonchalance during the meal marked him out infallibly as the principal speaker of the evening. Shortly before the arrival of the coffee he showed signs of agitation, searching feverishly in his pockets, and even under the table, for something he appeared to have mislaid. Eventually one of his neighbours discovered a piece of paper which had become concealed behind a decanter; glancing at it before proffering it to the great man, he observed that it contained fairly comprehensive notes for a speech. The opening words were—"When I came here tonight I had no idea that I was going to be called upon to address you."

Improvization may be defined as the art of meeting an unexpected situation, and it is an art in which the English genius excels. In war, in politics, in law, a long-term strategy is indispensable; but too rigid adherence to a preconceived plan may be fatal to success. The imagination of the layman, unconcerned with the careful planning of "back-room boys," is fired by the brilliant stroke of tactics, the quick-fire repartee of debate, the devastating question in cross-examination, apparently invented on the spur of the moment. The appearance may be, and frequently is, deceptive; the important thing is the element of surprise, which is shrewdly calculated to arouse wonder and admiration among friends and alarm and despondency in the enemy ranks. That, no doubt, is why the layman is more readily impressed by the spectacular successes of the barrister or the politician than by the unobtrusive efficiency of the solicitor or the statesman.

Whether the lawyer will find his *métier* in keeping his clients out of the rough and tumble of the courts by careful advice and practised draftsmanship, or in taking them safely through a hearing by superior dexterity in a forensic battle of wits, is largely a question of temperament. Both faculties are equally necessary to the working of the legal machine; only in exceptional cases are they found combined in one person. In Gilbert and Sullivan's *Iolanthe* there is an awkward *impasse*, for the Queen of the Fairies, when she discovers that every one of her

subjects has married some member of the House of Lords, in contravention of the Law of Fairyland which decrees that all fairies must die who marry a mortal ; but the Lord Chancellor finds a way out :

> " Allow me, as an old equity draftsman, to make a suggestion. The subtleties of the legal mind are equal to the emergency. The thing is really quite simple—the insertion of a single word will do it. Let it stand that every fairy shall die who *don't* marry a mortal, and there you are! out of your difficulty at once."

The amendment is not so far-fetched as it sounds. The English system is essentially empirical ; the common law was built on improvization ; and judges and legal draftsmen alike, throughout history, have had no hesitation in modifying the law to suit the circumstances. Public policy may be an unruly horse, but it has carried many a revolutionary change, on its broad back, into the Reports and on to the Statute Book. The eccentric will of Peter Thellusson, directing the accumulation of property, worth over half a million, during the lives of three generations of his descendants and their ultimate survivor, was held valid in *Thellusson* v. *Woodford* (1798) 4 Vesey, 237 ; but the Accumulations Act of 1800 nullified the effect of the decision. The hand of the improvizer has been seen, in recent times, in the unceasing cold war between the experts in " tax avoidance " and the parliamentary draftsmen, the former busily uncovering holes in the fiscal fabric, and the latter, a few rungs lower on the ladder, stopping them up with the mortar of amending legislation.

As for our constitution, it is a patchwork of improvization. Usages, conventions and statutes have whittled away the prerogatives of the Crown and of the House of Lords ; transformed the trades unions from unlawful bodies into privileged organizations, and (as many think) substituted for the absolutism of monarchy the near-absolutism of the ministerial arm. The forcing through of the Parliament Act, 1911, by the threat to swamp the Upper Chamber with newly-created peers, may be regarded as a masterpiece of improvization or a dangerously revolutionary precedent, according to taste. Most Englishmen have been apt to fling logic to the winds and to exclaim, with Alexander Pope :

> " For forms of government let fools contest ;
> Whate'er is best administered is best."

In these lines is epitomized the historic conflict between improvization and planning—the quick thrust and parry of political debate, and the long-term organizing activities of the executive and its civil service.

Literature and legend abound in examples of improvized remedies—all of them ingenious, some of them a little too much so. Among the Greeks the improvizer *par excellence* was Odysseus, " the man of many wiles," to whom was attributed the first recorded use of a Panzer Division—the Wooden Horse of Troy. He and his followers escaped from the cave of the blinded Cyclops by suspending themselves beneath the woolly bellies of the monster's gigantic sheep, thus evading the groping hands that searched their backs. And his ship passed safely by the rocks where the Sirens' song lured sailors to destruction only because he had injected wax into the ears of his men and had himself securely tied to the mast—perhaps the most resourceful example of evasive action in naval history.

The exploits of Hercules are perhaps a tribute to brawn rather than brain. To divert the course of a river for the purpose of cleansing dirty stables and cowsheds is a clumsy device, savouring of exhibitionism rather than good husbandry, and the injury caused to riparian owners and adjoining occupiers must have given rise to claims that leave *Rylands* v. *Fletcher* far behind. Improvization that disregards its natural consequence is merely bungling recklessness, and should be penalized accordingly. There was, for instance, the inconsiderate behaviour of Idomeneus, King of Crete, who saved himself in a shipwreck by vowing (like Jephthah in the *Book of Judges*) to sacrifice the first living creature he might meet on shore. The victim of this rash promise was his own son, and the only good that ever came of this piece of impulsive stupidity was a great deal of magnificent music in an opera composed by Mozart on this theme.

Examples of successful improvization are plentiful in the works of that great interpreter of English subtlety, Lewis Carroll. The Queen's gardeners, who planted a white rose-bush in disregard of orders, and corrected their mistake by painting the blooms red, not only recall the strife between Yorkist and Lancastrian, but symbolically anticipate the vicissitudes of political party warfare in very recent years. And when Alice, under the potency of the bottle labelled DRINK ME, found herself growing to an alarming size during the trial of the Knave of Hearts, the potential obstruction of justice was checked in a typically English manner :

> " At this moment the King, who had been for some time busily writing in his note-book, called out ' Silence ! ' and read out from his book —' Rule 42. *All persons more than a mile high to leave the court.*' Everybody looked at Alice . . . ' That's not a regular rule,' she said ; ' you invented it just now.' ' It's the oldest rule in the book ' said the King."

A.L.P.

BOOKS AND PUBLICATIONS RECEIVED

Civic Affairs : India's Monthly Municipal Journal. September, 1954.

Local Government in Yugoslavia issued by the Press Counsellor to the Embassy of the Federal People's Republic of Yugoslavia. 48, Phillimore Gardens, London, W.8.

The Calendar of the Pharmaceutical Society of Great Britain 1954/55. The Pharmaceutical Press, 17 Bloomsbury Square, London, W.C.1. Price 12*s.* 6*d.* plus postage 10*d.*

ADDITIONS TO COMMISSIONS

BEDFORD COUNTY

William Turnbull Hobkirk, Moorland, Bromham, Bedford.

KING'S LYNN BOROUGH

Mrs. Catherine Dorothy Allworthy, St. John's Vicarage, King's Lynn.

STAFFORD COUNTY

Albert Bailey, Rosemede, Cannock Road, Hightown, Hednesford.
Miss Irene Mary Bowyer, 19, Littlewood Road, Cheslyn Hay, nr. Walsall.
Mrs. Ellen Elizabeth Bunn, 48, The Crescent, Old Hill.
Major Geoffrey Foster, The Homestead, Elford, Tamworth.
Frederick William Morgan, B.E.M., 65, Bolebridge Street, Tamworth.
Mrs. Esther Edith Yorath, 1, Wulstan Drive, Newcastle-under-Lyme.

SURREY COUNTY

His Honour Joshua David Casswell, Q.C., 110, Ridgway, S.W.19.

WESTMORLAND COUNTY

Brigadier Edward Gordon Audland, C.B., C.B.E., M.C., Ackenthwaite, Milnthorpe.
Miss Ailsa Patricia Bickersteth, Casterton Hall, Kirby Lonsdale.
Miss Vera Gertrude Lucy Crampton, Browhead, Windermere.
George Holm Dobson, 16, Broadfield, Troutbeck Bridge, Windermere.
Mrs. Gertrude Graham, Helsington Lodge, Brigsteer, nr. Kendal.
Henry Hastings Sackville Thanet Tufton, Baron Hothfield, Appleby Castle, Westmorland.
Mrs. Joan Margaret Peltzer, Linthwaite, Kendal.
Charles Eric Wilson, Rigmaden, Kirby Lonsdale.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Illegitimate child of married woman (later divorced)—Service of notice on former husband.*

A and B (husband and wife) wish to adopt B's illegitimate child born during her previous marriage to C by whom she was divorced. She registered the child's birth and did not name the father, but the birth was known to C. No maintenance order for B or the child was made against C. Is C's consent to the adoption required?

S. NEMO.

Answer.

In our opinion C should be served with notice as a respondent and should be asked to give his consent. The child was born during B's marriage to C and is presumed to be legitimate until the contrary has been proved.

C may signify consent, or he may refuse to sign a form of consent on the ground that he is not the father. In the latter event B may prove at the hearing that the child is not his, and if the court is satisfied by the evidence C's consent would become unnecessary. In any case, the consent of C like that of any other respondent, may be dispensed with on the ground that it is unreasonably withheld, Adoption Act, 1950, s. 3 (1) (*c*).

2.—Licensing—*Occasional licence—Whether necessary for subscription ball where charge for admission includes right to be supplied with intoxicating liquor.*

The position is similar to that dealt with at 116 J.P. 722, in that a local hunt organizes a subscription dance at a private house in aid of hunt funds. The price of the tickets (which are paid for in advance) is inclusive of champagne, and no money for drinks is payable, the ticket holders having the right to such liquid refreshment (if any) as they may wish.

In this case, however, the drinks are not provided by the caterer, but are purchased in bulk by the secretary of the hunt out of the money subscribed by the ticket holders.

The dance is attended by invitation, but not necessarily only by members of the hunt.

The writer has put forward the view that a sale takes place and consequently an occasional licence is necessary, but is now informed by the organizing committee that advice has been obtained to the effect that the drink consumed is the property of the ticket holders, having been purchased on their behalf by the hunt secretary, and therefore no sale takes place.

1. Do you consider an occasional licence to be necessary? If so, (*a*) who should apply for it? (*b*) if no licence is obtained, who should be prosecuted for selling?

2. If the dance is held on unlicensed public premises (*i.e.*, a hall hired for the evening), does this affect the position? OAKAPPLE.

Answer.

If the scheme is that a subscriber, when purchasing his ticket, asks the hunt secretary to act as his agent in purchasing on his behalf a specified quantity of intoxicating liquor, the place of appropriation to the contract of sale would be at the licensed premises of the person from whom the intoxicating liquor is purchased, and no offence would be committed, for the subscriber, when present at the ball, would merely be consuming that which is his own property (*see Pletts* v. *Beattie* (1896) 60 J.P. 185; *Mizen* v. *Old Florida, Ltd., Egan* v. *Mizen* (1934) 50 T.L.R. 349).

But if, on the other hand, the intoxicating liquor is to be purchased in bulk and the bulk supply taken to the ball, there to be distributed from bulk to subscribers who individually have no ownership of any specific part of it, we think that appropriation to the contract of sale occurs when the subscriber is served with the quantity and kind of liquor for which he then asks, and the sale is therefore on unlicensed premises.

1. In our opinion, an occasional licence is necessary. (*a*) It should be applied for by the holder of an on-licence. (*b*) The offence would be committed by the person who sells the liquor; presumably, the hunt secretary.

2. It is only if the ball is held on unlicensed premises that the problem arises.

3.—Local Government Act, 1933—*Compulsory purchase of land—Parish council.*

We shall be glad if you will let us know whether a parish council can acquire land for the purpose of an omnibus shelter by compulsory purchase. Section 4 of the Local Government (Miscellaneous Provisions) Act, 1953, empowers a parish council to erect an omnibus shelter on land abutting a highway, but does not expressly give the parish council power to acquire land for this purpose. Section 167 of the Local Government Act, 1933, appears to give the parish council power to acquire land by agreement for this purpose, but s. 179 (*f*) would appear to prevent compulsory purchase under s. 168.

CORATHON.

Answer.

In our opinion, s. 179 (*f*) does not operate upon s. 168. If it did, s. 168 would be deprived of purpose in all cases where s. 167 applies. Section 179 (*f*) applies to s. 167, so that the answer to your first question is "no," but s. 168 is a separate enactment, enabling the county council to do by compulsion that which the parish council can do only by agreement.

4.—Magistrates—*Practice and procedure—Form of summons—No reference to regulation creating offence—Objection that information is bad.*

I should greatly appreciate your opinion on the following points:

A defendant was charged with permitting a breach of Motor Vehicles (Construction & Use) Regulation 72 (1), that being the only regulation mentioned in the information and summons. The point was taken that the offence was created by the M. V. (C. & U.) reg. 101, which was not mentioned, and therefore that the Magistrates' Courts Rules, r. 77 (2) had not been obeyed and that the information was bad: (*Shave* v. *Rosner* [1954] 2 All E.R. 280, was cited as authority for the regulation creating the offence).

The court, overruling the objection, relied on an unreported case, *Mogg* v. *Skirton*, on which you commented at 116 J.P. 351, which was decided under s. 32 of Criminal Justice Act, 1925, where the wording is rather different. Do you consider that case can still be regarded as good law, or was the information bad? JOANGA.

Answer.

Mogg v. *Skirton* was decided before the Magistrates' Courts Act and Rules came into force. We think that r. 77 (2) must be strictly complied with. In the case the subject of the question, as in *Shave* v. *Rosner*, *supra*, the regulation creating the offence is reg. 101, and in our view failure to mention that regulation in the summons made the summons defective in form. When the objection was taken the prosecution should have asked for, and the court have allowed, an amendment of the summons. If a conviction resulted on the summons without amendment we think the conviction could not be supported.

5.—National Assistance Act, 1948—*Local authority—Recovery of charges from estate of deceased person.*

I have recently had to consider in two cases the rights of a local authority to recover the cost of accommodation provided under Part III of the National Assistance Act, 1948.

1. A woman was admitted to Part III accommodation. She was the owner of property including the house in which she formerly lived. This house is of substantial value, and she was, therefore, assessed to pay the full standard rate under s. 22 (2). She is not capable of managing her own affairs but no receiver has yet been appointed. At the present time, therefore, no payment is being made in respect of the accommodation provided and, in fact, she is receiving no income from her house which has not been let or sold. Do you agree that, in the event of her death, the council will be able to recover the full arrears of the standard charge as a debt due from her estate, and that if proceedings were instituted in either the county court or the High Court the three years' limitation provided by s. 56 would not apply?

2. A blind man was admitted to Part III accommodation, originally as a result of the illness of his wife. The local authority were not aware that the wife had any resources and no application was made under s. 43 for an order against her. She has now died and left all her property to the children of a previous marriage. It appears that the estate is of substantial value. Do you agree that the local authority have no claim against the estate in respect of the cost of past maintenance of her husband? CROESUS.

Answer.

1. Yes. Section 22 says that she shall pay. This creates a debt. Section 56 (1) makes that debt summarily recoverable, but without prejudice to other methods. Section 56 (2) enlarges the period fixed, at that time, by s. 11 of the Summary Jurisdiction Act, 1848. It does not affect any proceedings except summary.

2. Yes, with some hesitation. Where the liability arises by virtue of s. 42, we think s. 43 is so framed as to exclude remedies other than complaint to the court defined in s. 43 (5).

6.—Probation—*Further offence, and sentence for original offence—Date to be recorded as date of conviction for original offence—Criminal Justice Act*, 1948, *s.* 12.

A person is found guilty on indictment and a probation order is made in respect of him. During the term of probation he commits a further offence and is brought before the same court and sentenced for the original offence.

From what date should the conviction for the first offence be recorded? Should this be the date the probation order was made or the date that he was dealt with for the second offence and sentenced for the original offence? SWINGHI.

Answer.

The date when the probation order was made is the date of conviction and should be so recorded. Once sentence has been passed the provisions of s. 12 (1) cease to apply, and the conviction is of the same effect as other convictions, the effects having been, as it were, suspended during probation.

7.—Probation—*Whether conviction may be used for purpose of proving guilty knowledge—Larceny Act*, 1916, *s.* 43—*Criminal Justice Act*, 1948, *s.* 12 (1).

In view of s. 12 (1) of the Criminal Justice Act, 1948, do you consider that a finding of guilt followed by a probation order can be quoted as a conviction "involving fraud and dishonesty" for the purposes of proving "guilty knowledge" as required by s. 43 of the Larceny Act, 1916. SWINGLO.

Answer.

Unless the probationer has brought himself within the proviso to s. 12 (1) the conviction is to be deemed not to be a conviction, subject to the exceptions mentioned in the section. It is therefore deemed not to be a conviction for the purposes of s. 43 of the Larceny Act, 1916, and cannot be given in evidence.

8.—Rating and Valuation—*Distress for Rates Act*, 1849—*Insufficient distress.*

Upon a distress warrant granted by the justices, various chattels were seized by the council's bailiff in order to offset a debt for unpaid rates. In his notice to the debtor, the bailiff stated that he had removed "the following chattels to the auction rooms to be sold by auction to satisfy the distress for rates for the borough of B."

At the public auction the chattels did not realize a sufficient sum to meet the arrears of rates, and, there being no further effects, a committal warrant was applied for in respect of the unpaid balance. The defaulting ratepayer now contends that by reason of the wording of the notice, *i.e.*, "to satisfy the distress for rates" there can be no existing debt, and therefore the council has no right to apply for a committal warrant. In my view, rates can only be satisfied either by payment in full, remission by the justices, or written-off by the council on a recommendation of its finance committee, and the wording of the bailiff's notice, which is not necessary by statute, appears irrelevant to this point.

Your opinion as to whether the wording of the bailiff's notice can affect the payment of rates in the manner suggested by the defaulting ratepayer, would be appreciated. DEMETRIUS.

Answer.

We agree with your view. We should have understood the notice, anyhow, to mean "to be sold for the purpose of satisfying"—a purpose not achieved. But, as you say, this wording is irrelevant. Section 2 of the Act of 1849 looks to facts, not words.

9.—Road Traffic Acts—"*C*" *licence—Local authority making a charge for carriage of chairs and tables lent by it for charitable purposes.*

The corporation own vehicles which have Class "C" licences. Occasionally, the corporation agree to lend chairs and trestle tables to charitable and other organizations within the borough. This equipment is transported in these corporation vehicles and the corporation would like to make a charge to cover the cost of transport only. Is there any reason why they should not do so? JEPTHA.

Answer.

In our view this would involve the carriage of goods for hire or reward. The case of *Wurzal* v. *Houghton Main Home Coal Delivery Service Ltd.* [1936] 3 All E.R. 311; 100 J.P. 503 is of interest.

10.—Road Traffic Acts—*Disqualification—Removal—Can it be limited to particular class of vehicle?*

My justices will shortly be required to deal with an application for the removal of a driving licence disqualification imposed on a defendant who was convicted of being drunk whilst driving a motor car. I understand that the applicant (who is a farmer) will request the justices to remove the disqualification but only so far as it relates to the driving of agricultural tractors.

The statute empowers justices to remove a disqualification "as it thinks proper," but is silent as to a partial removal of disqualification, and I have not been able to trace any authority dealing with this particular point.

I shall be glad to have your valued opinion as to whether or not the justices have power to partially remove the disqualification or whether their powers are such that they will have to either reject the application or totally remove the disqualification. JESMOND.

Answer.

In our view a court, acting under s. 7 (3) of the 1930 Act, must either remove completely the disqualification previously ordered or must refuse the application.

11.—Road Traffic Acts—*Insurance—Whether policy covers user—Opinion of insurance company—Consultations with police.*

It often comes to light when attending accidents or investigating other offences under road traffic laws, that a motorist strictly according to the terms of the insurance produced is not covered. Cases which come easily to mind are (1) where a person has been insured with the same firm for some few years, and by an oversight has allowed his policy to lapse shortly before he comes to the notice of the police; (2) where a person genuinely thinks he was covered and on examination of the policy it comes to light that he was not so covered while driving that particular vehicle.

It has become the practice in such cases for the police to write to the insurance company and say, "Would you have considered John Smith covered under the circumstances." The insurance company, quite naturally realizing by this time that there is no claim on them, in nearly every case reply, "Under the circumstances we should have considered him covered."

This, in my humble opinion, legally is wrong. I consider that a person is insured, or he is not, and that one should not rely on a decision by an obviously interested party.

However, I have recently had my confidence somewhat shaken by a decision in court, which would appear to support the above practice, and the circumstances of which are as follow:

A women came to our notice by committing several minor offences with a car, mainly between 8 *p.m.* and 3 *a.m.* She was required to produce her insurance certificate and driving licence by the police, and when finally spoken to she stated, "I have not had a driving licence for 11 years, when I had a provisional one in 1943. My husband is in hospital and he does not know that I am out in the car at all."

The husband was seen in hospital, and he had in his possession a certificate of insurance which allowed him "or any other person driving with his permission, provided that that person has held, or is not disqualified from holding, a driving licence."

He was asked if he had given his wife permission to drive, and he replied, "No. I did not know she was using the car. She has not had a driving licence for 11 years, so how could I give her permission?"

The lady in question was prosecuted, among other offences, for driving whilst uninsured. She was fined for the other offences, but with regard to the insurance offence, the police were directed to contact the insurance company, and to ask them "would they have considered that she was covered," and the bench looked on man and wife as "one."

I should like your valuable opinion as to whether you consider the practice of writing to insurance companies is in the best interests of justice, or is legally correct. JENSEN.

Answer.

The matter is dealt with specifically in *Carnill* v. *Rowland* [1953] 1 All E.R. 486; 117 J.P. 127, where the Lord Chief Justice refers at p. 487 to consultations between the police and insurance companies.

As to the particular case referred to, we should have thought on the facts stated that it was of the kind which Lynskey, J., had in mind (*see p.* 488 of the All E.R. report above) when he said that where the meaning of the policy is so clear as to exclude the company from liability the court is bound by that particular clause and must act on it.

12.—Street and House to House Collections.

Street collections for charitable purposes may be controlled by regulations made by the police authority under s. 5 of the Police, Factories, etc. (Miscellaneous Provisions), Act, 1916. House to house collections are governed by the House to House Collections Act, 1939, and the regulations made thereunder by the Home Secretary.

Where a collecting box is placed in a café, shop or public house, etc., it seems that such a collection, not being "an appeal to the public by means of visits from house to house" (which is the definition of "collection" in the 1939 Act) is not governed by either Act.

Is this view correct? S. PUBLICANUS.

Answer.

We agree that in the absence of any definition of "public place," those words, read in association with "street" would not appear to include cafés, etc., and that neither of the Acts cited applies.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. *(Contd.)*

HAMPSHIRE

APPLICATIONS are invited from solicitors with experience in Local Government work for the post of Assistant Solicitor on the staff of the Clerk of the County Council at a salary of £1,050×£50—£1,250. The commencing salary will be fixed in accordance with qualifications.

The post is pensionable and the appointment will be subject to the submission of a satisfactory medical report. In approved cases the County Council are prepared to assist newly appointed staff to meet removal and other expenses.

Applications, giving full particulars of age, education and experience, together with the names of two referees, should reach the Clerk of the County Council, The Castle, Winchester, by December 16.

NOTTINGHAMSHIRE MAGISTRATES' COURTS COMMITTEE

Appointment of Justices' Clerk

APPLICATIONS are invited from barristers or solicitors for the appointment of whole-time Clerk to the Justices for the County Petty Sessional Divisions of Nottingham and Bingham which have a total estimated population of 229,000. The salary will be £1,800 per annum rising by annual increments of £50 to £2,050 per annum plus £100 per annum for acting for more than one Division and a car allowance as approved from time to time, will also be payable. The person appointed will be required to perform such duties as he may from time to time be required by Law or otherwise to undertake, and to live in such place in or near the Divisions as may be approved. The appointment will also be subject to the conditions of service laid down by the Joint Negotiating Committee for Justices' Clerks; to three months' written notice of termination on either side; to the appropriate Superannuation Acts and to medical examination.

Applications, together with copies of three recent testimonials, must be received by me not later than December 11, 1954.

GEORGE NORTON,
Clerk of the Committee.

Shire Hall,
Nottingham.

SURREY MAGISTRATES' COURTS COMMITTEE

Wallington Petty Sessional Division

Appointment of Justices' Clerk's Assistant

APPLICATIONS are invited for the above whole-time appointment from men with experience of the work of a Justices' Clerk's Office. Applicants must be competent shorthand typists and must have completed their National Service. The salary offered will be in accordance with the new Grade I of the A.P. & T. Scales (£500×£20—£580, plus £30 London Weighting). The appointment is superannuable and will be subject to one month's notice on either side and the successful candidate will be required to pass a medical examination. Applications in own handwriting, stating age, qualifications and experience, with the names of three referees, should be sent to the Clerk to the Justices, 18 Stanley Park Road, Wallington, Surrey by December 7, 1954. Letters marked "Assistant."

When replying to advertisers please mention the Justice of the Peace and Local Government Review

BOROUGH OF DARWEN

Appointment of Deputy Town Clerk

APPLICATIONS are invited from Solicitors with Local Government experience for the appointment of Deputy Town Clerk. Salary in accordance with the new Scale A.P.T. V. £750—£900, commencing at £840 per annum.

Housing accommodation available if required.

Applications, giving particulars of age, experience and qualifications, together with the names and addresses of two referees, to be delivered to the undersigned endorsed " Deputy Town Clerk " not later than Monday, December 13, 1954.

C. C. BYERS,
Town Clerk.

Town Clerk's Office,
Darwen.

BUCKS COUNTY COUNCIL

Senior Assistant Solicitor

APPLICATIONS are invited from solicitors with considerable local government experience for the post of Senior Assistant Solicitor in the office of the undersigned. Salary on J.N.C. Scale E (£1,250×£50—£1,450). The post is superannuable and subject to medical examination.

Forms of application may be obtained from the undersigned and must be returned to him by January 3, 1955.

GUY R. CROUCH,
Clerk of the Bucks County Council.

County Hall,
Aylesbury.

Amended Advertisement

SHIPLEY URBAN DISTRICT COUNCIL

Appointment of Deputy Clerk and Solicitor

APPLICATIONS are invited from Solicitors for the above appointment within the new Grade VII (£900×£40—£1,100 per annum).

Applications, stating age, qualifications, present and past appointments and experience, together with names and addresses of two referees, should reach the undersigned not later than December 20, 1954.

Housing Accommodation will be provided if required, on a temporary basis.

ERNEST PEARS,
Clerk and Solicitor.

Town Hall, Shipley, Yorkshire.
November 26, 1954.

CITY OF OXFORD

A JUNIOR ASSISTANT SOLICITOR is required at a salary for the time being within the new Grade A.P.T. III (£675×£25—£725) or IV (£765×£30—£825) according to date of admission and experience.

Applications on forms to be obtained from the Town Clerk, Town Hall, Oxford, and naming three referees, must be submitted by December 31, 1954. Canvassing disqualifies.

Amended Advertisement

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WILSON KENYON,
Town Clerk.

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Poole, Dorset.

GLOUCESTERSHIRE (COMBINED AREAS) PROBATION COMMITTEE

Appointment of Whole-time Female Probation Officer

APPLICATIONS are invited for the above appointment. Applicants must be not less than 23 nor more than 40 years of age, except in the case of whole-time serving officers.

The appointment will be subject to the Probation Rules, 1949 to 1954, and the salary in accordance with the prescribed scale.

The successful applicant will be required to pass a medical examination, and will be stationed at Staple Hill, near Bristol.

Applications, stating date of birth, present position and salary, previous employment, qualifications and experience, together with copies of two recent testimonials, must reach me not later than December 11, 1954.

GUY H. DAVIS,
Clerk of the Committee.

Shire Hall,
Gloucester.

CITY OF LEICESTER

Appointment of Town Clerk

THE Leicester City Council invite applications from solicitors possessing a sound knowledge and extensive experience in local government law, practice and administration. The salary proposed for the appointment will be £2,750 per annum, rising to £3,000 per annum by two annual increments of £100 and one of £50.

The appointment is subject to the Conditions of Service contained in the Recommendations of the Joint Negotiating Committee for Town Clerks and District Council Clerks, to the Local Government Superannuation Acts and to the passing of a medical examination.

Applications, giving the names and addresses of three persons to whom reference may be made, must reach me not later than December 31, 1954.

KENNETH GOODACRE,
Town Clerk.

Town Hall,
Leicester.
December 3, 1954.

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